RICE UNIVERSITY

**A People Between: Servitude in Colonial Virginia, 1700–1783**

by

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A THESIS SUBMITTED
IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE

**Doctor of Philosophy**

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HOUSTON, TEXAS
APRIL 2013

ABSTRACT

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This dissertation recasts how historians and scholars have come to understand bound labor in eighteenth-century Virginia. Servants—including indentured servants, customary servants, convicts, Virginia-born servants, and apprentices—remained a part of Virginia's work force throughout the eighteenth century. Servants were a people between and navigated the worlds of freedom and unfreedom on a daily basis, working alongside slaves, negotiating with their masters, and attempting to make sense of their place in Virginia society as an alternative source of bound labor. Some historians, however, dismiss servants, claiming that by the end of the seventeenth century they had all but disappeared and that a general solidarity existed between all whites by the early eighteenth century. Other scholars acknowledge the presence of servants after the turn of the century, but rarely discuss their significance outside of economic analyses or migration studies. Throughout the eighteenth century Virginia masters failed to find common cause with this white labor force—despite its largely European origins and temporary bondage—and servants were constantly ensnared in the power relationships dictated by race, gender, and labor in colonial Virginia. The presence of servants throughout the eighteenth century suggests a need to reconsider colonial society not only across the lines of color but also along the lines of condition.

# ACKNOWLEDGMENTS

Although this section is meant to provide me a platform to thank and acknowledge those people and institutions that have helped me to complete this dissertation, a mere mention or "thank you" does not necessarily seem to be enough after all of the help and support I have received while working on this project. First, I am grateful to Rice University and the History Department for the generous funding that not only allowed me to be a part of the program but also to travel for research throughout the various stages of this process. In addition, I would like to thank the Colonial Williamsburg Foundation, the National Society of the Colonial Dames of America, and the Virginia Historical Society for their financial support. The administrative staff in the Rice History Department also deserves my thanks: Paula Platt, Rachel Zepeda, and Lisa Tate. Both Paula and Rachel went above and beyond in their support and encouragement. I must also thank Fondren Library and the Interlibrary Loan Office staff who worked to obtain the sources necessary for me to complete my research.

A number of historians, archivists, and friends made my research trips to London and Virginia both productive and enjoyable. I would like to thank the archivists at the London Metropolitan Archives who were able to grant me access to eighteenth-century contracts of indenture despite the Guildhall Library being closed for renovations, and many thanks to Noah McCormack for offering up his apartment to me during my two-week stay in London. I cannot forget to mention Sarah and Ruth Wild, who took me in my first night in town and explained to me how to navigate the Tube and get to the archives. Lastly, I am grateful to Alexander Byrd, who before my research trip provided me with some extra spending money, reminding me to enjoy myself while I was there.

The only thing he asked in return was that I pay it forward some time down the road. His thoughtfulness was—and still is—much appreciated. During the Virginia portion of my research I came into contact with many people who were both extremely helpful and exceptionally kind. I was able to get to know Brent Tarter, John Deal, and the late Sara Bearss during my first trip to the Library of Virginia in June 2010. The information they provided was invaluable during those early stages when I was still trying to find the best way to frame my dissertation. In addition, they welcomed me into their offices to have lunch during my three-week visit and challenged me to think deeply about my project and what I hoped to accomplish. Brent Tarter also graciously put me in touch with Susan Riggs at the Earl Gregg Swem Library at the College of William and Mary. Susan took the time to alert me to a number of resources available in the Special Collections Research Center that I was able to access during the final week of my research trip. I would also like to thank Inge Flester who willingly offered me a desk at the John D. Rockefeller, Jr. Library at the Colonial Williamsburg Foundation during this trip, as well as George Yetter, who helped acquaint me with the sources available in Special Collections.

During my three-month stay in Williamsburg, Virginia, during the summer of 2011 I not only made great progress on my project but also made connections with a number of people who remain an important and integral part of both my academic and non-academic life. At the Colonial Williamsburg Foundation, Harvey Bakari, Tricia Brooks, Jay Gaynor, Ed Shultz, Wayne Randolph, and Brett Walker allowed me to observe the work they do in the Historic Area in bringing to life the historic trades of the colonial period as well as the programs offered to visitors. Also, Doug Mayo and George

Yetter in Special Collections at the John D. Rockefeller, Jr. Library and Lou Powers and Linda Rowe in the Department of Historical Training and Research enabled me to go through the roomful of boxes related to the York County Project. Inge Flester, again, made this visit go smoothly from the beginning, setting me up with housing for the three months I would spend at CW and offering endless hospitality and support. I am immeasurably grateful to Taylor Stoermer for the endless support he gave me while in Williamsburg and long after I left. James Horn and Bill Weldon can certainly not be forgotten, nor those at the Omohundro Institute of Early American History and Culture who attended my fellow's forum, asked the hard questions, and continually welcomed me to their Friday morning coffee breaks. Nadine Zimmerli, especially, has made this entire dissertation writing process easier. I greatly appreciated our weekly check-ins and being held accountable for making quantifiable progress. Nadine quickly became a friend, and an indispensable one at that. At the Virginia Historical Society, Francis Pollard and Katherine Wilkins did not bat an eye when I had to change my research plans at the last minute and happily let me split my visit into two non-consecutive weeks. Thank you, too, to the archival staff who was happy to indulge my many requests for sources and delivered every box with a smile. The willingness of all of these individuals to help in any way they could is a testament to the fact that not every part of the dissertation writing process is a solitary one, and that while the encouragement and interest of others might not be constant, it can definitely bolster you while writing. The Williamsburg section of my acknowledgments would not be complete without thanking my running buddies who welcomed me into their group without hesitation and made both my early morning and weekend runs—and my three-month visit—much more enjoyable.

While there are many members of the Rice University community to whom I owe much thanks, no one deserves more than John Boles. There are no words to describe the support I have received from him throughout my graduate career. His endless interest in the work of his students and his great desire to see them succeed is beyond compare, and without him I would not be the scholar that I am. I know no other adviser who is as accessible as John Boles. The time, attention, and encouragement he gives his students is inexhaustible and inestimable.

I am also grateful to the members of my dissertation committee, especially Rebecca Goetz, who in many ways has acted as a co-adviser during my time at Rice. I thank her for sparking my interest in early American history, putting me in touch with folks at the Library of Virginia and Colonial Williamsburg, and for offering helpful and constructive advice. Roger Ekirch, too, deserves mention for his willingness to be involved with my project. As one of the few historians to study convict servitude, he happily agreed to be on my committee and has given me not only a lot to consider but also a great deal of encouragement and support. I would also like to thank Betty Joseph for her insights into my project.

And although not technically advisers in any official capacity, the support I have received from Randal Hall and Bethany Johnson at the *Journal of Southern History* has been wonderful and their words of encouragement meaningful. They played a larger role than they realize in this process. Thanks go to Pat Burgess as well. She was always happy to share in the celebration of good news.

I would be remiss if I did not acknowledge the role played by the interactions I have had with Rice faculty during and after coursework. Alexander Byrd, Edward Cox,

and Allen Matusow pushed me to become a better writer as well as to be confident in the work I produced. Carl Caldwell, Ira Gruber, and Lora Wildenthal always expressed interest in my work and the progress I was making. Kate de Luna and Caleb McDaniel did much the same.

Also deserving grateful thanks are my graduate school colleagues. Some, like Luke Harlow, were on their way out soon after I arrived at Rice, but Luke has remained an invaluable friend and supporter, willing to respond to text messages, emails, and phone calls about any number of things. He has served as a role model as to what both a graduate student and a young, successful scholar should be. His constant encouragement has been immensely helpful, and I am sure I will continue to seek his counsel for years to come. Drew Bledsoe, Andrew Canady, Andy Lang, Joe Locke, Carl Paulus, Sarah Paulus, and Ben Wright have all played a role in my graduate career and deserve thanks for their support, as they understand most what it is like to go through this process. I was lucky to have such wonderful colleagues. Jim Wainwright and Uzma Quraishi deserve their own acknowledgment among this group. I am so grateful to have shared an office with both of them over the past several years. Having them as a sounding board for any number of things was immensely helpful, both dissertation-related and otherwise. I am not sure I would have finished my dissertation without them. They are two of my dearest friends and colleagues. A thank you also to Nancy Zey and Joseph Moore, who regularly checked in on me and gave me much needed words of encouragement on a number of occasions.

Lastly, I must thank my family: My sisters, Heather and Tiffany, my brothers-in-law, and my nieces and nephews, who were always curious as to when I was going to

finish my “paper;” and most important, my parents, Al and Marcy Madar. My parents are living proof of what can be achieved through hard work, perseverance, and sacrifice. They have supported my every undertaking and have lived through all of my successes and failures. I am so happy to be able to share this accomplishment with them because it would not have been possible without them. My mom in particular deserves the most thanks. She has been my biggest support throughout this entire process and has patiently dealt with all of the emotion that sometimes comes with writing a dissertation. Her unconditional love, encouragement, and support are unmatched. I am eternally grateful and lucky to call her not only my mother but also my friend.

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# INTRODUCTION

In 1700 in York County, Virginia, George Fitch claimed that "he hath become a slave" to his master, Major Densey. According to the court record, Densey had kept Fitch in his service for fifteen years. This particular transcript was full of informational gaps, but it appears as though Fitch was kept well beyond the original terms of his indenture and that sometime during his fifteen years of bondage he attempted to run away. His escape was most likely due to Densey's misuse, whether keeping Fitch in bondage beyond his contract, abusing or mistreating him, or failing to provide him basic provisions, all of which, based on the historical record, occurred regularly throughout the eighteenth century. After absconding, Fitch was taken up by William Browne, who upon learning Fitch's story became his attorney and spoke in his behalf before the court. With Browne's help, Fitch was granted his immediate freedom for the "unfair dealing" he experienced under Densey. In the eyes of Fitch and even the York County court justices (well-respected men held in high esteem and appointed by the governor), during his fifteen years of servitude he had indeed effectively "become a slave."[1]

While we know nothing of the actual mistreatment Fitch experienced, his temporary bondage clearly matched more closely a life of unfreedom than freedom. He was held beyond his term, exploited by his master, and only freed from service when another free person stepped in to speak in his behalf. Major Densey did not consider Fitch anything but exploitable labor that he could keep under his control despite a legal contract that specified the end of Fitch's bonded condition. For Densey, Fitch was a bonded laborer contracted to work not just until the expiration of his contract but for

[1] George Fitch, York County, 1700: York County Deeds, Orders, Wills, 1698–1702, 11, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 325.

however long Densey could keep him away from the York County court. Hence in Densey's eyes, Fitch was neither temporarily bound nor a potential fellow free person in eighteenth-century York County, Virginia—a society clearly divided along racial lines, heavily dependent on African slavery, and almost void of white servants.[2]

By the eighteenth century Virginia was deeply entrenched in the tobacco economy and reliant on enslaved labor. This commitment to tobacco began during the early seventeenth century when Virginia experienced an economic boom after the 1620s. At that time white indentured laborers from England performed the majority of the work planting, cultivating, and curing the tobacco. While this boom was short-lived, it was enough to convince Virginians to focus their efforts on that crop. During this time servants were valued for the labor they provided in the cultivation of tobacco, but by the end of the century—with the ready supply of English servants decreasing and in effect becoming more expensive—Virginia began to import enslaved Africans to supply their labor force.

As slavery and tobacco became more embedded in eighteenth-century Virginian society, the population quickly rose. While numbers vary, between 58,000 and 60,000 people lived in Virginia in 1700, with between 85 and 90 percent of the population being white—both servant and free—and 10 to 15 percent enslaved Africans. By 1750 Virginia's population increased to approximately 230,000 inhabitants, 40 percent of

[2] Oliver Perry Chitwood, *Justice in Colonial Virginia* (Baltimore: Johns Hopkins University Press, 1905), 75–77. See also "County Courts Appointed (1662)," Act XXXI, William Waller Hening, *The Statutes at Large: Being a Collection of all the Laws of Virginia from the First Session of the Legislature, in the Year 1619* (13 vols.; Richmond: R. & W. & G. Bartow, 1819–1823), online edition, transcribed by Freddie L. Spradlin for vagenweb.org (hereafter *Hening's Statutes at Large*), II, 69–71.

whom were enslaved, and only thirty years later about 535,000 people, both free and enslaved, lived in the colony, 220,582 of whom were enslaved.[3]

By the eighteenth century big planters built not only their plantations but their social standing upon the backs of their enslaved laborers, while smaller farmers and planters, who hoped to eventually gain the prestige and respect of their large landholding neighbors, attempted to prosper in much the same fashion. Eighteenth-century Virginian society, however, was one based on inequality that reached far beyond "slave" and "free" or "black" and "white." It *was* a society established firmly on American slavery and American freedom and tobacco and slaves, but not all of those who labored on the plantations or within the households of the master class fit this mold. Much like the gradations of wealth and power that existed among the gentry and the smaller planters, variations existed among the bonded laborers who worked within their households. Some were black and permanently bound while others were temporarily bound and mostly white (but also mulatto). White servitude did not wholly disappear with the entrenchment of slavery; it persisted into the eighteenth century. By including servants in the story of the development of eighteenth-century Virginia, we not only learn about those people willing to temporarily bind themselves to serve another and how they were treated but also about the institution of slavery and the master class who bound varying numbers of laborers from both servile institutions—permanent and temporary bondspersons—on their plantations, in their stores, and in their households. [4]

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[3] Rhys Isaac, *The Transformation of Virginia, 1740–1790* (New York: W.W. and Norton, 1988), 12. See also "Population, by race and colony or locality, 1610–1780," unpublished chart, Colonial Williamsburg Foundation.

[4] Edmund S. Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York: W. W. Norton and Company, 1975), chapter 6, 175, chapter 15, 341–45; Isaac, *The Transformation of Virginia*, 24–30; 32–42, 57; John C. Coombs, "Beyond the 'Origins Debate': Rethinking the Rise of

Temporarily bound servants, including indentured, customary, and convict servants, locally bound servants, and apprentices, though not the main source of labor in eighteenth-century Virginia, remained a part of the colonial work force, and, therefore, constituted a not insignificant part of colonial Virginian society. They often worked alongside other servants and slaves, both in the households and in the fields of their masters. And in some instances servants were the only labor force their masters could afford. In a society where power and prosperity hinged on a person's access to labor, for some masters (but certainly not all) their servants in essence *were* their slaves; and as those masters themselves attempted to gain power and respect in eighteenth-century Virginia, they mimicked the actions of the gentry and dominated and exploited their labor force in very similar ways.[5]

Since the publication of Edmund S. Morgan's *American Slavery, American Freedom: The Ordeal of Colonial Virginia* in 1975 historians have been quick to define colonial Virginia as a society divided between slavery and freedom, or, put differently, between black and white. Morgan argues that the growth of slavery during the late seventeenth century and early eighteenth century allowed white colonists of all classes and statuses—including servants, the middling sort, and the gentry—to come together

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Virginia Slavery," in Douglas Bradburn and John C. Coombs, eds., *Early Modern Virginia: Reconsidering the Old Dominion* (Charlottesville: University of Virginia Press, 2011), 239–78; Allan Kulikoff, *Tobacco and Slaves: The Development of Southern Cultures in the Chesapeake, 1680–1800* (Chapel Hill: University of North Carolina Press, 1986), chapters 3, 4, 5, 7; Anthony Parent, *Foul Means: The Formation of a Slave Society in Virginia, 1660–1740* (Chapel Hill: University of North Carolina Press, 2003), chapters 2, 3, 7.

[5] For examples that some masters were not far above their servants on Virginia's social ladder, see Parent, *Foul Means*, 57; Teri L. Snyder, "'To Seek for Justice': Gender, Servitude, and Household Governance in the Early Modern Chesapeake," 131, 138; Coombs, "Beyond the 'Origins Debate,'" 250; T. H. Breen, James H. Lewis, and Keith Schlesinger, "Motive for Murder: A Servant's Life in Virginia, 1678," *William and Mary Quarterly*, 3rd ser., 40 (January 1983), 106–120, esp. 108; Margaret M. R. Kellow, "Indentured Servitude in Eighteenth-Century Maryland," *Histoire Sociale*, 34 (November 1984), 229–55, esp. 229; Christine Daniels, "Alternative Workers in a Slave Economy: Kent County, Maryland, 1675–1810" (Ph.D. dissertation, Johns Hopkins University, 1990).

and find common cause based not on their social or economic condition but on their whiteness. It was at this point, Morgan contends, that race as a category came to trump other forms of relationships in colonial Virginia. While Morgan presents Bacon's Rebellion (1676) as the moment at which this change occurred, he also suggests that the dwindling number of servants arriving in the colonies by the early eighteenth century allowed this shift to take place. Servant numbers *were* declining, and Morgan is certainly not the only scholar to address this. But servants remained a part of Virginia's labor force throughout the eighteenth century, and their presence suggests that condition or status as bound laborers sometimes trumped race well after Bacon's Rebellion.[6]

Despite cursory consideration by many historians of early America who have tended to view the institution of servitude as nothing more than a transition to slavery, some scholars have paid it closer attention. Richard B. Morris discussed the nature of bound labor, sources of bound labor, and the legal status of servitude in his 1946 monograph *Government and Labor in Early America*. He argued that the population of the Chesapeake colonies included a considerable number of white servants throughout the 1700s and that declining servant numbers in the face of the increasing number of slaves during the eighteenth century was not an adequate measure of their importance. A

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[6] Morgan, *American Slavery, American Freedom*. For others who have taken up Morgan's mantle in their own work see Kulikoff, *Tobacco and Slaves*, 3–6, 37–44; Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill: University of North Carolina Press, 1996), 1–3, 150–54; Russell R. Menard, "From Servants to Slaves: The Transformation of the Chesapeake Labor System," *Southern Studies*, 16 (Fall 1977), 355–90, esp. 317 and 389. Also published in *Migrants, Servants and Slaves: Unfree Labor in Colonial British America* (Aldershot, G.B., 2001), 355–90. See also T. H. Breen, "A Changing Labor Force and Race Relations in Virginia, 1660–1710," *Journal of Southern History*, 7 (Autumn 1973), 3–25; Ralph Gray and Betty Wood, "The Transition from Indentured to Involuntary Servitude in Colonial Georgia," *Explorations in Economic History*, 13 (1976), 353–70; David W. Galenson, "White Servitude and the Growth of Black Slavery in Colonial America," *Journal of Economic History*, 41 (March 1981), 39–47; Lorena S. Walsh, "White Servitude and the Growth of Black Slavery in Colonial America: A Discussion," *Journal of Economic Slavery*, 41 (March 1981), 48–49; Kenneth Morgan, *Slavery and Servitude in Colonial North America: A Short History* (New York: New York University Press, 2001), 36–37, 314.

year later, Abbot Emerson Smith traced the experience of bound colonists—including indentured and convict servants—to the colonies from the founding of Virginia through the early years of the American Revolution. These studies offer overviews of servants and servitude throughout the colonial period but offer little in terms of specificity. Although their broad approach to the institution of servitude is a good starting point, it fails to answer any questions regarding how the presence of servants in eighteenth-century Virginia affected not only the racial and social dynamics of the colony but also how colonists viewed power and labor. During the 1980s David Galenson, Bernard Bailyn, and Roger Ekirch returned to the study of servants, Galenson and Bailyn focusing on indentured servants and migration, and Ekirch on convict servants. In *White Servitude in Colonial America: An Economic Analysis*, Galenson examines how indentured servitude changed over time and argues that by the eighteenth century the demographic composition of the servant class arriving from England changed. Servants were younger, more skilled, and mostly male. Bernard Bailyn's study spans three years—1773–1776—and explores the migration of free and bound laborers from England and Scotland to North America. Bailyn's is a history of the movement of white emigrants across the Atlantic during the late eighteenth century and does not focus solely on servant migration. Complementing the scholarship of Galenson and Bailyn, Roger Ekirch focuses specifically on convict servants who arrived in the colonies between 1718 and 1775. Unlike indentured servants, convicts did not necessarily volunteer to bind themselves to service, and Ekirch traces the development of the convict transportation system and its effects on colonial society.[7]

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[7] Richard B. Morris, *Government and Labor in Early America* (1946; reprint, New York: Harper and Row, 1965), 36–37, 310–512, esp. 313, 325–37; Abbot Emerson Smith, *Colonists in Bondage: White Servitude*

Other scholars have focused their studies on servants in specific colonies or regions. Farley Grubb and Susan V. Salinger have studied servants and servitude in Pennsylvania, while Margaret M. R. Kellow and Christine Daniels have focused on the servant experience in Maryland. While Kellow and Daniels are not the only historians who discuss servants in the Chesapeake, many others focus on the transition to slavery in this region and mention servants only briefly. Kellow asserts that indentured servants remained a part of eighteenth-century Maryland's labor force because small planters, unable to afford slaves, used white, unskilled (and cheaper) servants instead. Christine

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*and Convict Labor in America, 1607–1776* (Chapel Hill: University of North Carolina Press, 1947); David W. Galenson, *White Servitude in Colonial America* (Cambridge: Cambridge University Press, 1981), ix, 23, 31, 47, 49, 51–56, 127; Bernard Bailyn, *Voyagers to the West: A Passage in the Peopling of America on the Eve of the Revolution* (New York: Vintage Books, 1986), 129, 154, 160, 174–75; A. Roger Ekirch, *Bound for America: The Transportation of British Convicts to the Colonies, 1718–1775* (Oxford: Clarendon Press, 1987). See also Galenson, "Agreements to Serve in America and the West Indies, 1727–31," *The Genealogists' Magazine*, 19 (June 1977), 40–44; Galenson, "British Servants and the Colonial Indenture System in the Eighteenth Century," *Journal of Southern History*, 44 (February 1978), 41–66; Galenson, "'Middling People' or 'Common Sort;'?: The Social Origins of Some Early Americans Reexamined," *William and Mary Quarterly*, 3rd ser., 35 (July, 1978), 499–524; Galenson, "The Market Evaluation of Human Capital: The Case of Indentured Servitude," *Journal of Political Economy*, 89 (June 1981), 446–67; Galenson, "White Servitude and the Growth of Black Slavery in Colonial America," *Journal of Economic History*, 41 (March 1981), 39–47; Galenson, "The Rise and Fall of Indentured Servitude in the Americas," 1–26; Galenson, "The Settlement and Growth of the Colonies: Population, Labor, and Economic Development," in Stanley L. Engerman and Robert E. Gallman, eds., *The Cambridge Economic History of the United States. Volume I. The Colonial Era* (Cambridge: Cambridge University Press, 1996), 135–207. For other migration studies, see also Bailyn, *The Peopling of British North America: An Introduction* (New York: Vintage Books, 1986); David Souden, "'Rogues, Whores and Vagabonds'?: Indentured Servant Emigrants to North America, and the Case of Mid-Seventeenth-Century Bristol," *Social History*, 3 (January 1978), 23–41; James Horn, "Servant Emigration to the Chesapeake in the Seventeenth Century," in Thad W. Tate and David L. Ammerman, eds., *The Chesapeake in the Seventeenth Century: Essays on Anglo-American Society* (Chapel Hill: University of North Carolina Press, 1979), 51–95; Henry A. Gemery, "Emigration from the British Isles to the New World, 1630–1700: Inferences from Colonial Populations," *Research in Economic History*, 5 (1980), 179–231; P. C. Emmer, ed. *Colonialism and Migration; Indentured Labour Before and After Slavery* (Netherlands: Martinus Nijhoff Publishers, 1986); Russell R. Menard, "British Migration to the Chesapeake Colonies in the Seventeenth Century," in Lois Green Carr, Philip D. Morgan, and Jean B. Russo, eds., *Colonial Chesapeake Society* (Chapel Hill: University of North Carolina Press, 1988) 9–132; Lois Green Carr, "Emigration and the Standard of Living: The Seventeenth Century Chesapeake," *Journal of Economic History*, 52 (June 1992), 271–91; Aaron Fogleman, "Migrations to the Thirteen British North American Colonies, 1700–1775: New Estimates," *Journal of Interdisciplinary History*, 22 (Spring 1992), 691–709; Christopher Tomlins, "Indentured Servitude in Perspective: European Migration into North America and the Composition of the Early American Labor Force, 1600–1775," in Cathy Matson, ed., *The Economy of Early America: Historical Perspectives and New Directions* (University Park: Pennsylvania State University Press, 2006), 146–82.

Daniels argues much the same in her 1990 dissertation on an alternative labor force in Kent County, Maryland. Apprentices, debt servants, and hired laborers, Daniels contends, performed work in this Maryland county despite the growing reliance on enslaved labor.[8]

In more recent years Christine Daniels has investigated the presence and agency of servants in Maryland in both the seventeenth and eighteenth centuries and believes that the historiography reflects an overemphasis on the abuse of masters and the powerlessness of servants. Daniels examines servant petitions in Maryland between 1652 and 1797 and argues that more often than not county and provincial courts decided in favor of servants who complained against their masters. She seeks to disprove what she believes to be an overemphasis on statutes and the dominance of masters in favor of a

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[8] Farley Grubb, "Immigrant Servant Labor: Their Occupational and Geographic Distribution in the Late Eighteenth-Century Mid-Atlantic Economy," *Social Science History*, 9 (Summer 1985), 249–75; Grubb, "Morbidity and Mortality on the North Atlantic Passage: Eighteenth-Century German Immigration," *Journal of Interdisciplinary History*, 17 (Winter 1987), 565–85; Grubb, "Fatherless and Friendless: Factors Influencing the Flow of English Emigrant Servants," *Journal of Economic History*, 52 (March 1992), 85–108; Grubb, "The Disappearance of Organized Markets for European Immigrant Servants in the United States: Five Popular Explanations Reexamined," *Social Science History*, 18 (Spring 1994), 1–30; Grubb, "The End of European Immigrant Servitude in the United States: An Economic Analysis of Market Collapse, 1772–1835," *Journal of Economic History*, 54 (December 1994), 794–824; Grubb, "Labor, Markets, and Opportunity: Indentured Servitude in Early America, a Rejoinder to Salinger," *Labor History*, 39 (1998), 235–41; Grubb, "Withering Heights: Did Indentured Servants Shrink from an Encounter with Malthus? A Comment on Komlos." *Economic History Review*, New Series, 52 (November 1999), 714–29; Grubb, "The Transatlantic Market for British Convict Labor," *Journal of Economic History*, 60 (March 2000), 94–122; Grubb, "The Market Evaluation of Criminality: Evidence from the Auction of British Convict Labor in America, 1767–1775," *American Economic Review* (March 2001), 295–304. See also Sharon Salinger, "Labor, Markets, and Opportunity: Indentured Servitude in Early America," *Labor History*, 38 (1997), 311–38. Kellow, "Indentured Servitude in Eighteenth-Century Maryland," 229. Daniels, "Alternative Workers in a Slave Economy: Kent County, Maryland, 1675–1810." For a similar argument that illustrates servant success before the court and the importance of customary law in Virginia, see Betty Wade Wyatt Coyle, "The Treatment of Servants and Slaves in Colonial Virginia" (Master's Thesis, College of William and Mary, 1974), 24, 65. See Richard Hofstadter, *America at 1750: A Social Portrait* (New York: Alfred A. Knopf, 1971), 33–65; Darrett B. Rutman and Anita H. Rutman, *A Place in Time: Middlesex County, Virginia, 1650–1750* (New York: W.W. Norton and Company, 1984); Lois Green Carr, Russell R. Menard, and Lorena S. Walsh, *Robert Cole's World: Agriculture and Society in Early Maryland* (Chapel Hill: University of North Carolina Press, 1991); James Horn, *Adapting to a New World: English Society in the Seventeenth-Century Chesapeake* (Chapel Hill: University of North Carolina Press, 1994); Lorena S. Walsh, *Motives of Honor, Pleasure, and Profit: Plantation Management in the Colonial Chesapeake, 1607–1763* (Chapel Hill: University of North Carolina Press, 2010); Jean B. Russo and J. Elliott Russo, *Planting an Empire: The Early Chesapeake in British North America* (Baltimore: Johns Hopkins University Press, 2012).

more concentrated focus on case law and customary law. Statutes and statutory law were the written laws of Virginia. Case laws were those established not by statute, but by judicial decisions. And custom and customary law was based on the more objective, case-by-case decisions of the court. What Daniels fails to address, however, is that while some servants appeared before the court on their own volition to register a complaint, many others were brought by their masters for real or purported offenses that interfered with their service. Servant petitioners were only one group presented before the courts, though, as many others appeared for having attempted to run away, for having had a bastard child, or to have their ages adjudged. And it was only in the cases in which they complained against their masters that they asserted any agency or power over themselves. Those brought before the court for having challenged their masters and the laws regarding their behavior were often reminded of their powerlessness and their unfree condition.[9]

Virginia-specific studies of servitude, other than James Curtis Ballagh's, written in 1865, are rare. Over the course of the last fifty-seven years, several dissertations and theses have been written that address some aspect of servitude in colonial Virginia, but, overall, the most recent scholarship lacks consideration of this understudied institution. It

[9] Case Law, Statutory Law, and Customary Law, *Black's Law Dictionary Online*, s.v. "statutory law"; "case law"; "customary law," accessed March 25, 2013, http://thelawdictionary.org/. Christine Daniels, "'Liberty to Complaine': Servant Petitions in Maryland, 1652–1797," in Christopher L. Tomlins and Bruce H. Mann, eds., *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001), 219–49, esp. 220, 225. The most recent work on labor is that of Christopher Tomlins. While he mentions servants, they are not his main focus. In a 2006 essay Tomlins challenges previous studies of servant migration and downplays the role servitude played in establishing the foundations of the American labor system. In his 2010 monograph Tomlins argues that labor regulation played a significant role in shaping early America. He also speaks to the insignificance of servitude and its failure to provide a large number of laborers for the colonies or play an important part in the development of work relations or labor regulation in early America. Tomlins does, however, acknowledge the importance of servitude and the work of servants in the early years of colonization. See Christopher Tomlins, "Indentured Servitude in Perspective," 147, 151; Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1580–1865* (Cambridge: Cambridge University Press, 2010), esp. 64.

seems as though many historians feel that Morris's legal analysis, Galenson's economic study, and Bailyn's migration studies have done all there is to do. George Fitch, however, was not one of the last servants to believe that his bondage mirrored that of the enslaved. He and many other (mostly white) servants were constantly ensnared in a power struggle with their white masters dictated by race, gender, and labor. They were most often reminded of their powerlessness because of their bonded condition and not because of their race. Race did play a role for some, especially those involved with members of the enslaved community, which most often turned out to be servant women. And servant women were dually exploited not only for their productive labor but also for their reproductive labor. While servants had some advantages over the enslaved because of their access to the courts, servants struggled to find their place in society: they were neither enslaved nor completely free, and they were constantly exploited and manipulated and reminded of their bondage, even if it was temporary. Servants were a people between slavery and freedom in eighteenth-century Virginia; therefore our understandings of race, status, and even gender are complicated by their presence while at the same time the power and prosperity of the master class is reinforced. Servants lacked access to land; therefore, they lacked access to power and prosperity. By treating servants as bonded laborers and not soon-to-be free persons and only giving them minimal rights according to law, eighteenth-century Virginia was not wholly a society divided along the lines of black bondage and white freedom; there were many who experienced life between these two conditions.[10]

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[10] James Curtis Ballagh, *White Servitude in the Colony of Virginia: A Study of the System of Indentured Labor in the American Colonies*, (Baltimore: Johns Hopkins University Press, 1895); Clinton M. Dunning, "Servitude and Crime in Colonial Virginia" (Master's Thesis, University of Wyoming, 1955); Neil E. Weiser, "The Subjective World of White Servitude in Eighteenth Century Maryland and Virginia,"

Servants were a people between; they navigated the worlds of freedom and unfreedom on a daily basis. Unlike the enslaved, servants were not permanently bound and were largely white. They agreed to work for someone else for a number of years and then hoped to gain their freedom and work for themselves, as free men and women. If they expected their whiteness to gain them advantages or to unify them in some way with their masters, as argued by Edmund Morgan, they were, in most cases, mistaken. They were bound laborers, not free white men and women, and therefore their masters treated them as such. This is not to say that there were no exceptions, but more often than not their status as servants trumped their whiteness. Servants, therefore, lived between permanent bondage and freedom and spent their contracted time negotiating these circumstances and attempting to make sense of their place in Virginian society as an alternative source of bound labor. While servants may not have played a significant role in supplying large numbers of laborers to the colonies after 1700, they were important as a people and for the unique space they occupied in colonial Virginia. During their servitude, they experienced moments of freedom and unfreedom and were constantly reminded that while they were not bound for life, they certainly were not free in eighteenth-century Virginia. Their presence suggests the need to recast our understanding of colonial society not only across the lines of color but also along the lines of condition.[11]

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(Master's Thesis, Bowling Green State University, 1972); Coyle, "The Treatment of Servants and Slaves in Colonial Virginia"; Frederick Hall Schmidt, "British Convict Servant Labor in Colonial Virginia" (Ph.D. dissertation, College of William and Mary, 1976); Turk McCleskey, "Across the First Divide: Frontiers of Settlement and Culture in Augusta County, Virginia, 1738–1770" (Ph.D. dissertation, College of William and Mary, 1990).

[11] For a discussion of servants' role in establishing the foundations of early American work relations see Tomlins, "Indentured Servitude in Perspective,"147, 151; Tomlins, *Freedom Bound,* 64.

Studies of Virginia's enslaved and master class—and even the middling sort—abound, but in large part the people who lived and worked between these groups during the eighteenth century continue to go unnoticed. While extensive research on slaves, masters, and small farmers and landowners give great insight into the development of colonial society, in order to fully understand how that society worked and the important role that class and status played, all members of society must be considered. Servitude and the servant experience, however, are not easy subjects to research. The majority of servants failed to leave personal accounts of their experiences. Those who did document their lives were, for the most part, atypical; perhaps they became servants later in their lives, or they were literate and had received extensive schooling, or maybe they were writing to promote emigration or, as some convicts did—if they returned to England at the end of their service—they wrote to warn against the dangers of a life of crime. Even these sources are limited and not all speak specifically to the servant experience in Virginia; therefore, other sources must be used to understand the lives and experiences of the servants bound to labor in eighteenth-century Virginia. These sources include existing contracts of indenture housed at the Guildhall Library in London, England, county court records from York, Accomack, Augusta, Richmond, and Essex Counties in Virginia, Hening's *Statutes at Large*—Virginia's law code—as well as runaway ads posted in the Virginia *Gazette*.[12]

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[12] For the experiences of some atypical servants see, John Harrower, *The Journal of John Harrower: An Indentured Servant in the Colony of Virginia, 1773–1776*, edited by Edward Miles Riley (Williamsburg: Colonial Williamsburg, Inc., 1963); Gottlieb Mittelberger, *Journey to Pennsylvania*, edited by Oscar Handlin and John Clive(Cambridge: Belknap Press, 1960); Susan E. Klepp and Billy G. Smith, eds., *The Infortunate: The Voyage and Adventures of William Moraley, an Indentured Servant* (2nd ed.; University Park: Pennsylvania State University Press, 2005); James Revel, *The Poor Unhappy Transported Felon's Sorrowful Account of His Fourteen Years Transportation, at Virginia, in America* (York: C. Crowshaw Coppergate, 1800). Electronic edition; John Lauson. *The Felon's Account of His Transportation at Virginia in America*, reprinted and edited by J. Stevens Cox (Guernsey, U. K.: Toucan Press, 1969). For existing

Using contracts of indenture dating between 1718 and 1759, county court transcripts, runaway ads, and Hening's *Statutes at Large*, this dissertation investigates the experiences of servants throughout the eighteenth century and how, as an alternative source of bound labor, they navigated a society most often seen as divided along the lines of black bondage and white freedom. Because of the dearth of primary sources authored by servants, these contracts, court records, laws, and runaway ads are invaluable for understanding the servant experience but, of course, do not tell the whole story. Unfortunately, many of these sources do not provide a large amount of vital information, like servant origins, ages, occupations, and former masters, to name a few. The most informative court records identify the name of the servant and his or her master, along with their reason for being in court. They sometimes provide the occupation of the master or the county of residence, and, in cases of runaways, provide a description of the servant's clothing and physical features. It should also be kept in mind that the servants that were contracted in London, appeared before the Virginia county courts, or had their escape published in the *Gazette*, were only part of the servant community in eighteenth-

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contracts see London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1718–1725," Box 1, CLA/047/LR/05/ 01/001; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1727–1733," Box 2, CLA/047/LR/05/01/002; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1734–1759," Box 3, CLA/O47/LR/05/01/003; Jack Kaminkow and Marion Kaminkow, eds., *A List of Emigrants from England to America, 1718–1759* (Baltimore: Magna Carta Book Company, 1981); York County Deeds, Wills, and Inventories, 1698–1746, 11–19, reels 5–10 (microfilm), Library of Virginia, Richmond, Virginia; Accomack County Order Books, 1697–1780, reels 79–86 (microfilm, Library of Virginia, Richmond, Virginia; Augusta County Order Books, 1765–1783, 10–17, reels 65–67 (microfilm), Library of Virginia, Richmond, Virginia; Essex County Orders, 1764–1773, 26–28, reels 70–81 (microfilm), Library of Virginia, Richmond, Virginia; Richmond County Order Books, 1762–1789, 15–20, reels 37–40 (microfilm), Library of Virginia, Richmond, Virginia; see also The Geography of Slavery, "Documents: Official Records—County Records," http://www2.vcdh.virginia.edu/gos/countyRecords.html; William Waller Hening, *The Statutes at Large: Being a Collection of all the Laws of Virginia from the First Session of the Legislature, in the Year 1619* (13 vols.; Richmond: R. & W. & G. Bartow, 1819–1823) online edition, transcribed by Freddie L. Spradlin for vagenweb.org (hereafter *Hening's Statutes at Large*); Williamsburg Virginia *Gazette*, 1736–1789; see also The Geography of Slavery, "Explore Advertisements," http://www2.vcdh.virginia.edu/gos/browse/browse1730s.php.

century Virginia. Many others remain undocumented. Therefore, the over six hundred cases of servants appearing before the York County court—in addition to the cases from the other counties mentioned above— and the over three hundred servants contracted to Virginia from London during the eighteenth century, do not speak to the large numbers whose contracts have been lost or those who never filed official complaints against their masters, either because they were treated well, served out their terms and were set free, or because they were too scared of what would happen to them if they did, or because they never acted in such a way that their masters were compelled to bring them before the court. Laws and court records, however, can do more than trace the legal history in a certain time and place; they can also shed light on the society in which they were enacted and tell us far more than what the people themselves can reveal.

While the majority of servants discussed appeared before the York County courts, others belonged to masters in Accomack, Augusta, Essex, and Richmond Counties as well. York County, formed in 1643 and originally named Charles River County, is situated along the York River and in the eighteenth century shared its western boundaries with Warwick County (now extinct and consolidated with the city of Newport News) and James City County and its southern boundary with Elizabeth City County, also now extinct, having incorporated with the city of Hampton. Accomack County is one of two counties on Virginia's Eastern Shore—the piece of land that separates the Chesapeake Bay from the Atlantic Ocean—the other is Northampton. Accomack County was formed in 1663. From the colonial period through the mid-nineteenth century, the Eastern Shore had the largest free black population in Virginia. Augusta County was sparsely inhabited throughout the eighteenth century and was not formed until 1738. It was essentially

Virginia's western frontier out of which other counties were slowly carved and originally extended into present day West Virginia and Kentucky. Essex County is located in Virginia's Middle Peninsula—the land between the Rappahannock River and the York River—and Richmond County in the Northern Neck—the land between the Potomac and Rappahannock Rivers.[13]

Those scholars either in the mid-twentieth century or more recently who have discussed servants have often focused simply on indentured servants, convict servants, or both, but there are several distinct groups of laborers who were bound—some voluntarily, others involuntarily—as "servants" in eighteenth-century Virginia. Included in this group were indentured servants, customary servants, convict servants, the locally bound, or, Virginia-born servants—including mulatto bastard children and the white women who gave birth to them—and apprentices. It is important to understand not only that all of these people were bound in some way to serve another, but also that there were some differences among them. Despite these differences, though, indentured, customary, and convict servants, and even those born in Virginia, experienced servitude in similar ways once they were bound. Even apprentices, bound at a young age to learn a particular skill or trade, were sometimes exploited much like other servants. Therefore, the differences among these servants were not their experiences in servitude but the process by which they entered their temporary bondage.

Implemented in Virginia soon after the establishment of Jamestown, indentured servitude was a new form of bound labor organized around sending willing individuals to

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[13] Emily J. Salmon and Edward D. C. Campbell Jr., eds., *The Hornbook of Virginia History: A Ready-Reference Guide to the Old Dominion's People, Places, and Past* (4th ed.; Richmond: Library of Virginia, 1994), 3, 159, 161, 164, 171, 191, 192; Snyder, "'To Seeke for Justice,'"130.

the New World to perform agricultural labor. While it had some similarities with English husbandry, indentured servitude was not a direct reflection of that practice but rather an extension of it, modified to suit New World conditions and demands. English servants in husbandry, or farm servants, left their families at a young age to perform work for someone else. These servants were usually bound through a verbal agreement to serve their master for one year. They lived in the homes of their masters and were provided with wages, food, and lodging. Most servants in husbandry continued to make one-year contracts, moving from household to household, until they married. The biggest difference between English husbandry and indentured servitude was the distance servants traveled in order to be bound, which then led to differences in how that labor was contracted and the duration of that contract.[14]

Willing immigrants bound themselves as indentured servants for, on average, four to seven years, and signed a contract of indenture with a trading agent in their country or city of origin. That trading agent had a network of contacts in the colonies, and upon arrival there, a servant's contract was sold to one of those contacts, or assigns, most likely a colonial planter or small farmer. In return for their service, servants had their transatlantic passage paid for and received food, shelter, and clothing while under contract, and freedom dues at the expiration of their term.[15]

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[14] Galenson, *White Servitude in Colonial America*, 3, 5–9.

[15] Galenson, *White Servitude in Colonial America: An Economic Analysis*, 3, 5–9; Morgan, *Slavery and Servitude in Colonial North America*, 8, 10; Russo and Russo, *Planting an Empire*, 61; Walsh, *Motives of Honor, Pleasure, and Profit*, 20–21; Morris, *Government and Labor in Early America*, 310; Edwin J. Perkins, *The Economy of Colonial America* (2nd ed., New York: Columbia University Press, 1988), 91. See also, Mildred Campbell, "Social Origins of Some Early Americans," in James Morton Smith, ed., *Seventeenth-Century America: Essays in Colonial History* (Chapel Hill: University of North Carolina Press, 1959), 63–89, esp. 70; Lois Green Carr and Lorena S. Walsh, "Economic Diversification and Labor Organization in the Chesapeake, 1650–1820," in Stephen Innes, ed., *Work and Labor in Early America* (Chapel Hill: University of North Carolina Press, 1988), 144–88, esp. 156; Christopher L. Tomlins and

By the eighteenth century, the contract itself, the indenture, was a printed document that provided a combination of the following information: date, name of servant, country of origin, occupation, name of trading agent, destination, length of term, age, the signature or mark of the servant, and the signature of a witness and sometimes a guardian. Contracts issued in London between 1718 and 1759—the contracts used in this study—came in two forms, one for minors and one for adults, but the form itself was more different than the information provided.[16] These surviving contracts represent only a small number of the servants who arrived from London during the eighteenth century.

Those laborers traditionally referred to as indentured servants did make up a large proportion of the eighteenth-century temporary work force, but other servants, also signing indentures, bound their labor in different ways. It is important to keep in mind that London was not the only city of origin for servants emigrating to the colonies, and an indenture signed in the Old World was not the only way servants contracted their labor.

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Bruce H. Mann, eds., *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001), 216; Daniels, "'Liberty to Complaine,'" 221–22; Galenson, "The Settlement and Growth of the Colonies: Population, Labor, and Economic Development," 139, 153; Henry A. Gemery, "Markets for Migrants: English Indentured Servitude and Emigration in the Seventeenth and Eighteenth Centuries," in Emmer, ed., *Colonialism and Migration*, 46; E. Van Den Boogaart and P. C. Emmer, "Colonialism and Migration: An Overview," in Emmer, ed., *Colonialism and Migration*, 6; John C. Coombs, "Building 'The Machine': The Development of Slavery and Slave Society in Early Colonial Virginia" (Ph.D. dissertation, College of William and Mary, 2003), 5; Fogleman, "From Slaves, Convicts, and Servants to Free Passengers: The Transformation of Immigration in the Era of the American Revolution," *Journal of American History*, 85 (June 1998), 43–76, esp. 47; Galenson, "The Rise and Fall of Indentured Servitude in the Americas," 2–3; Galenson, "British Servants and the Colonial Indenture System in the Eighteenth Century," 54; Matthew C. Pursell, "Changing Conceptions of Servitude in the British Atlantic, 1640 to 1780," (Ph.D. dissertation, Brown University, 2005), 2.

[16] For a discussion of the different contracts used in eighteenth-century London see, Galenson, *White Servitude in Colonial America*, 200–203. See also London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1718–1725," Box 1, CLA/047/LR/05/ 01/001; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1727–1733," Box 2, CLA/047/LR/05/01/002; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1734–1759," Box 3, CLA/O47/LR/05/01/003.

Servants who traveled to the colonies without an indenture were bound upon arrival based on the "custome of the country," which in Virginia meant that any servant arriving without an indenture would serve according to his or her age. The specific ages and terms to which servants would be bound to serve changed throughout the seventeenth century, but by 1705, when the first comprehensive law concerning both servants and slaves was written, masters were required to bring their servants before the county court within six months of their servant's arrival in the colony. Once presented before the court, so-called customary servants were made to serve until they were twenty-four years old. If their masters failed to have their ages recorded within the first six months of their arrival in Virginia, they were contracted for five years of service regardless of their age. The main difference between indentured and customary servants, then, was when they were indentured. Also, customary servants were often younger than those emigrating with contracts, and, because of Virginia laws, they often served longer terms. Regardless of these differences, both indentured and customary servants traveled to the colonies in the same way and were subject to the same work, conditions, and laws. Once their labor was contracted, and in some cases, recorded in the county courts, the details of their binding were no longer important. They were servants bound to work for someone else for a number of years and expected to contribute to the success of an economy and a household that was not their own. The unfreedom experienced by indentured servants and customary servants was the same, as was the case with convict servants, who, despite being bound involuntarily, experienced servitude in much the same way.[17]

[17] For seventeenth-century laws regarding how long customary servants were made to serve see "Act XXVI (1643)," *Hening's Statutes at Large*, I, 257; "How long Servants without Indentures shall Serve (1658)," Act XVIII, *Hening's Statutes at Large*, I, 441–42; "Servants How Long to Serve (1662)," Act XCVIII, *Hening's Statutes at Large*, II, 113–14; "Servants Comeing into This Country without Indentures Under the

Convict servants began arriving in the Chesapeake after the passage of the Transportation Act in London in 1718. The act was to serve two purposes. First, it was "to deter wicked and evil-disposed Persons from" committing crimes, and second, to supply the colonies with servants, who, "by their Labour and Industry might be the Means of improving and making the said Colonies and Plantations more useful to this Nation." Therefore, as of January 20, 1718, any person "convicted of Grand or Petit Larceny," among other crimes, and "liable to be whipt or burnt in the Hand, or have been ordered to any Workhouse" and having the benefit of the clergy, could, instead, be transported to the colonies. With the benefit of the clergy, persons found guilty of certain crimes were exempt from the sentence that came with that crime. For example, if a person was convicted of a felony but had the benefit of the clergy, he or she would not face death for having committed that crime. According to the Transportation Act, any person who knowingly purchased stolen goods was to be transported for fourteen years. Every transported convict was issued a certificate of transportation, and once transported, they were to remain in the colonies and serve out their entire term. If they returned to Britain before the expiration of their term, they were subject to execution. The king, however, had the authority to "pardon and dispense with any such Transportation, and allow of the Return of any such Offender or Offenders from *America*" at any time,

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Age of Sixteen Yeares to be Brought Within Fower Months to the Court, and Their Ages There Judged (1662)," Act XI, *Hening's Statutes at Large*, II, 169. For eighteenth-century laws see "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Sections I–II, *Hening's Statutes at Large*, III, 447. This law also stated that any Christian servant above the age of nineteen was to serve until they were twenty-four. This same law was reiterated in 1748. See "An Act Concerning Servants, and Slaves (1748)," Chapter XIV, Section I, *Hening's Statutes at Large*, V, 547. See also "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section I, *Hening's Statutes at Large*, VI, 356 and "An Act to Amend the Act for the Better Government of Servants and Slaves (1756)," Chapter XXV, Section III, *Hening's Statutes at Large,* VII, 136–37. Menard, "British Migration to the Chesapeake Colonies in the Seventeenth Century," 127; Horn, "Servant Emigration to the Chesapeake in the Seventeenth Century," 55; Tomlins, "Indentured Servitude in Perspective," 167; Pursell, "Changing Conceptions of Servitude in the British Atlantic," 2–3.

pending the convict servant's master was compensated for the time lost. Also included in this act was a provision deterring unemployed, destitute Londoners between the ages of fifteen and twenty-one from becoming thieves as a way to gain transport to the New World. Instead, the act stated that any persons between fifteen and twenty-one were allowed to enter a contract for service not exceeding eight years and arrive in the colonies very much like an indentured servant.[18]

During the eighteenth century, over twenty thousand convicts were transported to Virginia and Maryland, but once they arrived they were treated much the same as other temporarily bound laborers, with a few exceptions. Like indentured and customary servants, convict servants endured a transatlantic voyage at the start of their service. Their arrival and sale in the colonies, however, resembled that of slaves, as their potential masters boarded the ship to examine them and measure their worth. James Revel, a convict transported to Virginia during the eighteenth century, recounted his own arrival: "Then to refresh us we were all made clean,/That to our buyers we might better seem,/The things were given that did to each belong,/And they that had clean linen put it on,/ Our faces shav'd, comb'd out wigs and hair,/That we in decent order might appear, . . . Some view'd our limbs turning us round,/Examining like horses if we were sound."[19]

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[18] "An Act For the Further Preventing Robbery, Burglary and Other Felonies, and For the More Effectual Transportation of Felons, and Unlawful Exporters of Wool; and For the Declaring the Law upon Some Points Relating to Pirates," (Cap. XI), in *The Statutes at Large From the First Reign of King George the First, To the Ninth Year of the Reign of King George the Second* (London, 1786), V, 113–15 (first through fourth p. 113, fifth quotation on p. 114 ). Benefit of Clergy, *Oxford English Dictionary Online*, s.v. "benefit of clergy," accessed March 16, 2013, http://www.oed.com/view/Entry/17694?rskey=Y1ZT8a&result=1&isAdvanced=false#eid23477500. See also Smith, *Colonists in Bondage*, 110–34; Ekirch, *Bound for America*, 18–21, 25, 78, 111–12; Galenson, "The Settlement and Growth of the Colonies," 158; Schmidt, "British Convict Servant Labor in Colonial Virginia," 30–31.

[19] Smith, *Colonists in Bondage*, 119. For other estimates, see Ekirch, *Bound for America*; Peter Wilson Coldham, *The King's Passengers to Maryland and Virginia* (Westminster, Md.: Willow Bend Books, 2000), iii; Coldham, *The Complete Book of Emigrants in Bondage, 1614–1775* (Baltimore: Genealogical

Once sold, convicts were rarely singled out from their servant counterparts, and the historical record rarely identified them specifically as convicts. Most references made to convict servants specifically appeared in runaway advertisements from the Virginia *Gazette*, but these references served the same role as other identifiers such as Virginia-born, English, or Irish. Virginia laws also spoke to the actions and rights of all servants, with only a few exceptions.

During the eighteenth century there were only a small number of laws that explicitly targeted convicts. The first, enacted in 1748, outlined how convicts charged with a capital offense were to be tried and how convicts with the benefit of the clergy should be punished. This law also denied convicts, as well as "negroes, mulattos, and Indians," all "of . . . base and corrupt principles," the right to appear in court as witnesses, or to provide evidence, except if they were testifying against another convict servant. Free blacks, mulattoes, and Indians were also only allowed to testify against other free blacks, mulattoes, and Indians. By 1753 convicts were not required to have their ages adjudged by the courts, despite arriving in Virginia with no contract. They were also excluded from receiving freedom dues since they were in Virginia to serve out their term

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Publishing Company, Inc., 1988), ix; Richard S. Dunn, "Servants and Slaves: The Recruitment and Employment of Labor," in Jack P. Greene and J. R. Pole, eds., *Colonial British America: Essays in the New History of the Early Modern Era* (Baltimore: Johns Hopkins University Press, 1984), 157–94, esp. 170; Stephen Innes, ed., *Work and Labor in Early America* (Chapel Hill: University of North Carolina Press, 1988), 10; Marcus Wilson Jernegan, "Economic and Social Influence of the Indentured Servant," in Marcus Wilson Jernegan, ed., *Laboring and Dependent Classes in Colonial America, 1607–1783, Studies of the Economic, Educational, and Social Significance of Slaves, Servants, Apprentices, and Poor Folk* (Chicago: University of Chicago Press, 1931), 45–56, esp. 48; Schmidt, "British Convict Servant Labor in Colonial Virginia," 32, 71, 195; Fogleman, "From Slaves, Convicts, and Servants to Free Passengers," 58; Grubb, "The Transatlantic Market for British Convict Labor,". 94; Grubb, "The Market Evaluation of Criminality: Evidence from the Auction of British Convict Labor in America, 1767–1775," esp. 295. For other sources that largely equate convict servants with the rest of the servant class, see Ekirch, *Bound for America*, 4, 58, 84; Coldham, *Emigrants in Chains*, 5; Morgan, *Slavery and Servitude in Colonial North America*, 55–57. Revel, *The Poor Unhappy Transported Felon's Sorrowful Account of His Fourteen Years Transportation, at Virginia, in America*, 4. For a historical perspective, see Smith, *Colonists in Bondage*, 218–25.

for having committed a crime; but from 1718, when the Transportation Act was passed, until the mid-eighteenth century, convict servants did receive dues after they completed their seven-to-fourteen-year terms of service. One of the last laws specifically targeting convict servants was enacted in 1769 and stated that masters of convict women who gave birth to bastard children were required to care for that child and were entitled to that child's service. This act was put in place due to the frequency with which Virginians believed convict women gave birth to bastard children. And because convicts were unable to testify in court, women convict servants could not legally identify the father of the child or receive support from them, hence the master's legal obligation to care for the child as well as the opportunity to benefit from additional labor. The final law, written in 1788, prevented the further importation of convicts into Virginia. Importation of convicts had, according to this law, caused "much injury . . . to the morals, as well as the health, of our fellow-citizens." Any ship master caught bringing in servants was imprisoned for three months.[20]

These laws established during the mid-eighteenth century did the most to separate convicts from other temporarily bound laborers. The involuntary nature of their arrival—despite many convicts' willingness to serve in the Americas rather than undergo punishment or face death in London—and their inability to testify in court and receive freedom dues, placed them even lower than other servants on Virginia's social ladder. The law saw them as detrimental to society, their only usefulness being in the work they

[20] "An Act Directing the Method of Trial of Criminals for Capital Offences; and for Other Purposes therein Mentioned (1748)," Chapter XIII, Sections VIII, IX, and X, *Hening's Statutes at Large*, V, 545–47 (quotations on p. 546); "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Sections I and VIII, *Hening's Statutes at Large*, VI, 356, 359; "An Act for the Relief of Parishes from such charges as may arise from Bastard Children Born within the Same (1769)," Chapter XXVII, Section VI, *Hening's Statutes at Large*, VIII, 377; "An Act to Prevent the Importation of Convicts into this Commonwealth (1788)," Chapter XII, *Hening's Statutes at Large*, XII, 668–69 (quotation on p. 668).

performed for others. Benjamin Franklin, in a letter published in the Pennsylvania *Gazette* in May 1751, referred to convict servants as "rattlesnakes" that "prevent[ed] the IMPROVEMENT and WELL PEOPLING of the Colonies." The fear among colonists was that with an influx of criminals into Virginia, or elsewhere, crime would increase, and in some cases this might have been true, although, because the majority of servants were not identified specifically as convicts in the court records, it is difficult to prove.[21]

This handful of laws enacted during the eighteenth century specifically targeting convict servants does not provide enough evidence to prove that convict servants were treated any differently than their indentured and customary counterparts because, when convicts were not mentioned specifically, the rules and regulations set out to address servants' rights and restrictions undoubtedly included them. While questions regarding the influence of convict servants on colonial crime rates persist, that is a topic for a different study. Based on the historical record, convict servants endured a servitude very similar to that of indentured and customary servants, locally bound servants, and even some apprentices. Significant differences do exist regarding how they were bound and how they may have been viewed, but ultimately, they, too, were a people between who spent seven to fourteen years of their lives working for someone else. From the inception of the Transportation Act in 1718 until the end of importation in 1788, convicts caused discontent and unease among some colonists, although Virginia court records do not

[21] Benjamin Franklin to the Pennsylvania *Gazette*, May 9, 1751, "Felons and Rattlesnakes," *Papers of Benjamin Franklin* (47 vols., New Haven: Yale University Press, 1954–2011), online edition, IV (quotations). In *Bound for America* Ekirch provides accounts from Alexander Spotswood, the governor of Virginia, and William Byrd II in which they discuss the absence of crime in Virginia, even in the midst of transportation (p. 186, 192). Hofstadter, in *America at 1750*, offers an account from the Virginia *Gazette* in 1751 speaking of the rise in crime due to the importation of convicts (p. 48–49). Kenneth Morgan calls for further studies in order to fully understand the effect that convict transportation had on crime rates in the colonies in *Slavery and Servitude in Colonial North America*, (p. 55–57).

necessarily reflect the same. This disgruntlement, however, was not due to the involuntary bondage of convict servants—slavery had proven that forced bondage was not morally problematic for colonists—but to the forceful way colonists felt Parliament legislated transportation upon them.[22]

Locally bound, or Virginia-born servants included two groups: children born to servant women (who were not allowed to marry while bound) and free white women who gave birth out of wedlock. Any child born to a servant woman was handed over to the care of the churchwardens of the parish. Churchwardens were lay representatives who took care of both the finances and physical property of the church, and in cases of what they called bastard-bearing, they were in charge of binding out those children to service. If a servant woman had a mulatto child, that child was made to serve until he or she was thirty-one years old, and their servant mothers also had their contracts extended. The mothers served their masters for an additional twelve months and then were presented to the churchwardens, who bound them out for another five years. Any free white Christian women found guilty of having a mulatto child out of wedlock was also bound out for five years. These locally bound servants, like indentured, customary, and convict servants, and apprentices, were expected to serve a master or mistress for several years of their life, and in the case of mulatto bastard children for *most* of their lives.[23]

The last group of servants included in this study is apprentices. Apprentices entered servitude in one of two ways, either they were bound in England and endured a

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[22] Franklin to the Pennsylvania *Gazette*, May 9, 1751, "Felons and Rattlesnakes," *Papers of Benjamin Franklin*, IV.

[23] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XVIII, *Hening's Statutes at Large*, III, 452–53; *Oxford English Dictionary Online*, s.v. "Churchwarden," accessed January 27, 2013, http://www.oed.com/view/Entry/32832?redirectedFrom=churchwarden#eid.

trans-Atlantic journey like indentured, customary, and convict servants, or they were born in and bound in Virginia. Although masters of apprentices promised to teach them a valuable skill during their service, apprentices were still bound to serve someone else, and the length of their contracts depended on their age. Apprentices were most often bound to serve at a young age, like customary servants, and were usually bound out by their parents, guardians, or as a result of being orphaned. Virginia law required all orphans to serve until they were twenty-one years old and also established that apprentices should not only learn a trade but also learn to read and write, whereas other apprentices who were not orphans were bound for any number of years, depending on the agreement they made with their masters. Some were bound for a little as one year, while others were bound for a time period similar to that of indentured servants (4 to 7 years). While apprentices left their service better prepared than most other servants, they still spent a good part of their lives bound by contract to someone else, working and making profit for someone else; and for some orphans, they were bound out during infancy. Those bound at a very young age were most likely assigned to do basic tasks within the household until they were old enough to learn those skills guaranteed by contract. Despite being taught a skill and sometimes being contracted out by their parents, apprentices did not always escape the abuse and mistreatment that other servants endured. Their masters did not necessarily view them as a tradesman in training and instead exploited them as bound laborers required to do whatever they were told.[24]

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[24] "An Act for the Distribution of Intestates Estates Declaring Widows Rights to their Deceased Husbands Estates; and for Securing Orphans Estates, (1705)," Chapter XXXIII, Section XIV, *Hening's Statutes at Large*, III, 375–76. For scholarship on apprentices see Harold B. Gill Jr., *Apprentices of Virginia, 1623–1800* (Salt Lake City: Ancestry); Herbert Applebaum, *Colonial Americans at Work* (Lanham, Md.: University Press of America, 1996), esp. chapter 7; Howard B. Rock, Paul A. Gilje, and Robert Asher, eds., *American Artisans: Crafting Social Identity, 1750–1850* (Baltimore: Johns Hopkins University Press, 1995); W. J. Rorabaugh, *The Craft Apprentice: From Franklin to the Machine Age in America* (New York:

All of these servants lived and worked in eighteenth-century Virginia, a society most often seen as predicated on black slavery and white freedom. Servants were neither slave nor free and instead existed somewhere between freedom and unfreedom. Some, like George Fitch, were regularly misused and exploited by their masters, which often led to an extralegal extension of their indentures and additional mistreatment.

This work on the temporarily bound of Virginia and their significance throughout the eighteenth century demonstrates that despite years of groundbreaking scholarship on this region, work remains to be done. It also calls for a return to that first British mainland colony in order to study a group of people often paid little attention by the end of the seventeenth century. As bound laborers, servants experienced oppression and exploitation at the hands of their masters, colluded with their fellow servants and slaves to resist their bondage, but only sometimes reaped the benefits of their temporary bondage in the courtroom. Servants played a significant role not only in the households in which they labored but also in the greater Virginian society as a people who lived at least part of their lives between freedom and unfreedom. In a society most often viewed as one divided along racial lines, servants played a role in complicating colonial conceptions of race, labor, gender, and power in eighteenth-century Virginia, and their presence challenges those who argue that by the late seventeenth century, whites of all statuses and conditions were able to form a common bond based on their whiteness that held them in solidarity against their black labor force.

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Oxford University Press, 1986); Sharon Braslaw Sundue, *Industrious In Their Stations: Young People at Work in Urban America, 1720–1810* (Charlottesville: University of Virginia Press, 2009); Ruth Wallis Herndon and John E. Murray, eds., *Children Bound to Labor: The Pauper Apprentice System in Early America* (Ithaca: Cornell University Press, 2009); Joan Lane, *Apprenticeship in England, 1600–1914* (London: UCL Press, 1996); Wendy Smits and Thorsten Stromback, eds., *The Economics of the Apprenticeship System* (Cheltenham, UK: Edward Elgar Publishing Limited, 2001).

# CHAPTER 1
## MORE THAN ROGUES: THE SERVANTS OF EIGHTEENTH-CENTURY VIRGINIA

In 1705 Robert Beverley, brother-in-law of William Byrd, published what he believed to be an honest account of the state of Virginia during the early eighteenth century. In it he made some observations regarding both servants and slaves. According to Beverley, male servants, male slaves, and some female slaves were "imployed together in Tilling and Manuring the Ground, in Sowing and Planting Tobacco, Corn, [et]*c*." Little distinction, he continued, was made regarding the clothing and food of servants and slaves, and "the Work . . . is no other than what the Overseers, the Freemen, and the Planters themselves do." Slave women and servant women, however, were "Sufficient[ly]" distinct. White women were rarely, if ever, made "to work in the Ground," and Virginia's laws were such that "the heaviest Taxes" were put upon the households that put white women to work in the fields. Servants—and slaves—were not mistreated, and "the Cruelties and Severities imputed to [Virginia]," Beverley claimed "[were] an unjust Reflection" of the region. If Beverley is to be believed, it seems there was relative harmony between masters and their servants, as he suggested they all were employed in similar work. He also included a brief description of the legal rights of servants in Virginia in an attempt to prove the benevolence of the system and to demonstrate that masters often used their servants "as tenderly as possible."[1]

Beverley continued his assessment of servitude in Virginia with a list of some of the laws implemented in the colony and the so-called care masters took in dealing with their temporarily bound, mostly white labor force. These laws were taken from the 1705

[1] Robert Beverley, *The History and Present State of Virginia*, edited by Louis B. Wright (Chapel Hill: University of North Carolina Press, 1947), 271–74 (first, second, third, and fourth quotation on p. 271, fifth quotation on p. 271–72, sixth quotation on p. 274, seventh quotation on p. 272). For a short biography on Beverley, see Wright's introduction, x–xxxv.

comprehensive "Act Concerning Servants and Slaves." Servants had the right to complain against their masters before the court at any time; masters were obligated to provide their servants with wholesome food, sufficient clothing, and lodging and were expected to appear in court to answer complaints. Masters were also not allowed to discharge sick servants from their contracts but were expected to care for them until the expiration of their terms. No new bargains or deals could be made between servants and masters without the permission of the courts, and all money, property, or goods brought with a servant into his or her service or earned on his or her own while bound was "intirely at their disposal" and could not be taken or used by their master. Any masters refusing to honor their obligations were liable to losing their servants to a "kinder" master. At the end of a servant's contract, he or she was guaranteed freedom dues, which usually consisted of corn and clothes, but Beverley also suggests that servants had the right to fifty acres of land, if he could find any. What Beverley fails to address is that the twelve points he makes to illustrate the benign nature of the institution of servitude are only part of the 1705 act that actually consists of over forty articles that outline not only what Beverley pointed out but also how disobedient servant and slaves were dealt with and the relative powerlessness of servants both during their bondage and at the expiration of their terms, despite their ability to petition the court.

What Beverley also fails to address is that while some of the laws in the 1705 act (and repeated in the comprehensive acts written in 1748 and 1753) were implemented as a way not to protect but to control Virginia's labor force, whether they were black or white, temporarily or permanently bound, and that the supposed safeguards given to servants in some of these laws were not necessarily implemented by the courts. As

argued by Christine Daniels, Chesapeake society relied on custom and customary law as much (if not more) than they depended on statutory law; therefore, even in the county courts, custom often trumped statute, court justices made their decisions as they saw fit, and servants remained powerless. Moreover, despite clear laws against it, masters often manipulated the courts and exploited their servants with no threat of redress due to the power and authority they held in eighteenth-century Virginia. Virginia law and the decisions made in Virginia's county courts suggest that masters did not feel any racial solidarity with their white temporary laborers and that both middling farmers and large planters used these institutions to their advantage to remind their servants that although their condition differed from that of slaves, they were most certainly not free and would be treated based on their condition and not on the color of their skin, and one of the few eighteenth-century accounts from a woman who can be considered a relatively typical servant illustrates just that.[2]

Elizabeth Sprigs, a servant during the 1750s, wrote a letter to her father in London detailing her life in the Chesapeake. Sprigs spoke of "toling almost Day and Night," eating "scarce anything but Indian Corn and Salt," and having "no shoes nor stockings to wear." If this was true, then Sprigs's master was failing to even provide her with the basic provisions she was guaranteed by law. Sprigs, like George Fitch who appeared before the

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[2] Beverley, *The History and Present State of Virginia*, 272–74 (quotations on p. 273); "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, William Waller Hening, *The Statutes at Large: Being a Collection of all the Laws of Virginia from the First Session of the Legislature, in the Year 1619* (13 vols.; Richmond: R. & W. & G. Bartow, 1819–1823), online edition, transcribed by Freddie L. Spradlin for vagenweb.org (hereafter *Hening's Statutes at Large*), III, 447–62; "An Act Concerning Servants and Slaves (1748)," Chapter XIV, *Hening's Statutes at Large*, V, 547–58; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, *Hening's Statutes at Large*, VI, 356–69. Christine Daniels, "'Liberty to Complaine': Servant Petitions in Maryland, 1652–1797," in Christopher L. Tomlins and Bruce H. Mann, eds., *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001), 219–49, esp. 220, 225.

York County court in 1700, claimed her life was worse than that of a slave, and she begged her father not only to send clothes but to forgive her for her disobedience, which appears to be the reason she was sent to the Americas. This account, then, certainly runs counter to that of Robert Beverley, and while it is possible that Sprigs was exaggerating, just like Beverley most likely was, it is clear that masters—or those who associated with them—viewed this institution much differently than did most servants who experienced it first-hand in eighteenth-century Virginia.[3]

When studying the institution of servitude and those who became servants, whether indentured, customary, or convict servants, Virginia-born servants, or apprentices, it is important to consider the ideas of work and labor. Work, defined simply as productive labor, meant that most everyone contributed in some way to the economic success of the household in which they lived. And while Robert Beverley would suggest that most male servants—along with male and female slaves and even their masters—worked in the fields, either in cultivating tobacco or more diversified crops like wheat and other grains after the 1720s, servants and slaves were put to work at a variety of tasks to ensure the economic success of their masters. It is also possible that in those households that included both servants and slaves, servants were used in more skilled labor than the enslaved. Regardless of how masters chose to use their servants, those servants, by signing a contract, were obligated to work for the benefit of their master's household for the number of years specified in their contract, which could range from one

[3] Elizabeth Sprigs, "Letter to Mr. John Sprigs in White Cross Street near Cripple Gate, London, September 22, 1756," http://historymatters.gmu.edu/d/5796.

year (for some apprentices) to over twenty years (if the mulatto child of a servant woman).[4]

The transition to slavery in Virginia, whether it occurred in the late seventeenth or early eighteenth century, did mean a decline in the servant population—as suggested by those historians who discuss servitude only as an institution of transition and others who fail to acknowledge it at all after Virginia's turn to African slavery—and scholars have attempted to quantify their presence in the colonies during the eighteenth century. Abbot Emerson Smith suggested that during the colonial period between one half and two thirds of all immigrants came as bound laborers, with the majority of them being male. The actual number of bound laborers present throughout the period varies greatly, ranging anywhere from 350,000 to 500,000 between the late sixteenth and late eighteenth centuries. These numbers, however, only include emigrant servants from Europe, mainly

[4] My definition of work is taken from a collection of essays edited by Stephen Innes in which he defines work as "productive labor, whether performed for one's family, one's master, or one's employer." Innes, ed., *Work and Labor in Early America* (Chapel Hill: University of North Carolina Press, 1988), 20. See also Christopher Tomlins, "Indentured Servitude in Perspective: European Migration into North America and the Composition of the Early American Labor Force, 1600–-1775," in Cathy Matson, ed., *The Economy of Early America: Historical Perspectives and New Directions* (University Park: Pennsylvania State University Press, 2006), 146–82, esp. 164; Christine Daniels, "Alternative Workers in a Slave Economy: Kent County, Maryland, 1675–1810," (Ph.D. dissertation, Johns Hopkins University, 1990), 478. For an in-depth investigation of how eighteenth-century Americans thought viewed their work and its importance, see J. E. Crowley, *This Sheba Self: The Conceptualization of Economic Life in Eighteenth-Century America* (Baltimore: Johns Hopkins University Press, 1974), 2–3. For a discussion of children's work, see Sharon Braslaw Sundue, *Industrious in Their Stations: Young People at Work in Urban America, 1720–1810* (Charlottesville: University of Virginia Press, 2009). For a history of work in America, see, Jacqueline Jones, *American Work: Four Centuries of Black and White Labor* (New York: W.W. Norton and Company, 1998); Robert J. Steinfeld, *The Invention of Free Labor: The Employment Relation in English and American Law and Culture, 1350–1870* (Chapel Hill: University of North Carolina Press, 1991). Chesapeake planters returned to economic expansion after the 1720s due to a decrease in the demand for tobacco in England partly due to European wars and their trade with other colonies. See Lois Green Carr, Philip D. Morgan, and Jean B. Russo, eds., *Colonial Chesapeake Society* (Chapel Hill: University of North Carolina Press, 1988), 7; Daniels, "Alternative Workers in a Slave Economy: Kent County, Maryland, 1675–1810," 480; Christine Daniels, "Gresham's Laws: Labor Management on an Early-Eighteenth-Century Chesapeake Plantation," *Journal of Southern History*, 62 (May, 1996), 205–38, esp. 208; Richard B. Sheridan, "The Domestic Economy," in Jack P. Green and J. R. Pole, eds., *Colonial British America: Essays in the New History of the Early Modern Era* (Baltimore: Johns Hopkins University Press, 1984), 43–85, esp. 45. See also John J. McCusker and Russell R. Menard, *The Economy of British America, 1607–1789* (1985; reprint, Chapel Hill: University of North Carolina Press, 1991), esp. 117–43.

indentured servants and convict servants, and do not include the customary servants, Virginia-born servants, and apprentices also included in this study. Estimating the number of servants in Virginia, let alone the American colonies as a whole, prior to the American Revolution is a difficult task, but absolute numbers are not what make servants significant. It was the way they were treated not only by their masters but also the law in a society most often understood as one divided between black bondage and white freedom that make them necessary to study, and how their presence into the eighteenth century complicates not only how we understand unfree labor but also how we understand race and gender. Numbers and other demographic information do, however, allow us to get a sense of who these servants were, what skills they possessed, and what their motivations might have been; therefore, an overview of the information we have regarding the number of servants who were bound in Virginia can be helpful.[5]

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[5] Abbot Emerson Smith, *Colonists in Bondage: White Servitude and Convict Labor in America, 1607–1776* (Chapel Hill: University of North Carolina Press, 1947), 3, 307–37. Most historians still use Smith's estimation when discussing servant numbers in the colonies. See, for example, Henry A. Gemery, "Markets for Migrants: English Indentured Servitude and Emigration in the Seventeenth and Eighteenth Centuries," in P. C. Emmer, ed., *Colonialism and Migration; Indentured Labour Before and After Slavery* (Dordrecht, Netherlands: Martinus Nijhoff Publishers, 1986), 33–54, esp. 33; Tomlins, "Indentured Servitude in Perspective," 150–51; John C. Coombs, "Building 'The Machine': The Development of Slavery and Slave Society in Early Colonial Virginia" (Ph.D. dissertation, College of William and Mary, 2003), vii–viii. For the number estimates, see Richard S. Dunn, "Servants and Slaves: The Recruitment and Employment of Labor," in Jack P. Greene and J. R. Pole, eds., *Colonial British America: Essays in the New History of the Early Modern Era* (Baltimore: Johns Hopkins University Press, 1984), 157–94, esp. 159 and Philip D. Morgan, "Bound Labor," in Jacob E. Cooke, ed. *Encyclopedia of the North American Colonies* (3 vols.; New York: Scribner's Sons, 1993), 2, 18. See also Christopher Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1580–1865* (Cambridge: Cambridge University Press, 2010), 34–38 for a discussion of the various numbers historians offer regarding the incidence of servants in colonial America. Edmund S. Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York: W. W. Norton and Company, 1975). For others who have taken up Morgan's mantle in their own work see Allan Kulikoff, *Tobacco and Slaves: The Development of Southern Cultures in the Chesapeake, 1680–1800* (Chapel Hill: University of North Carolina Press, 1986), 3–6, 37–44; Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill: University of North Carolina Press, 1996), 1–3, 150–54; Russell R. Menard, "From Servants to Slaves: The Transformation of the Chesapeake Labor System," *Southern Studies*, 16 (Fall 1977), 355–90, esp. 317 and 389. Also published in *Migrants, Servants and Slaves: Unfree Labor in Colonial British America* (Aldershot, G.B., 2001), 355–90. See also T. H. Breen, "A Changing Labor Force and Race Relations in Virginia, 1660–1710," *Journal of Southern History*, 7 (Autumn 1973), 3–25; Ralph Gray and Betty Wood, "The Transition from Indentured to Involuntary Servitude in Colonial Georgia,"

Over 3,000 servants were bound in London between 1718 and 1759 to serve in the colonies; less than 10 percent of them were contracted to work in Virginia. Servants varied in age and occupation, as well as in how long they agreed to serve. These contracts, in addition to those that survive documenting the movement of free and bound emigrants from England and Scotland between December 1773 and March 1776, represent only a small percentage of the servants who labored in the colonies, and more specifically, Virginia, during the eighteenth century. And David Galenson suggests that the 20, 657 contracts made between 1650 and 1775 that he used in his study only account for 5 to 7 percent of the relative indentured servant population arriving in the Americas between the mid-seventeenth and late eighteenth centuries. My own research indicates that in York County, Virginia, alone, over six hundred servants, including indentured, customary, and convict servants, as well as locally bound servants and apprentices, appeared before the county court during the eighteenth century. And these servants do not include the three hundred or so whose contracts of indenture still exist.[6]

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*Explorations in Economic History*, 13 (1976), 353–70; David W. Galenson, "White Servitude and the Growth of Black Slavery in Colonial America," *Journal of Economic History*, 41 (March 1981), 39–47; Lorena S. Walsh, "White Servitude and the Growth of Black Slavery in Colonial America: A Discussion," *Journal of Economic Slavery*, 41 (March 1981), 48–49; Kenneth Morgan, *Slavery and Servitude in Colonial North America: A Short History* (New York: New York University Press, 2001), 36–37, 314.

[6] David W. Galenson, *White Servitude in Colonial America: An Economic Analysis* (Cambridge: Cambridge University Press, 1981), `6–17; London Metropolitan Archives, "Memoranda of Agreement to Serve in America and the West Indies, 1718–1725, 1727–1733, 1734–1759, Boxes 1–3, CLA/047/LR/05/01/001, CLA/047/LR/05/01/002, CLA/047/LR/05/01/003. From the existing London contracts from the eighteenth century, I compiled a file that includes information on all of the servants who traveled across the Atlantic between 1718 and 1759 to work in the New World. This file includes the following: contract date, name of servant, sex, county/city of origin (if available), occupation (if available), length of contract, destination, age, agent information, and whether the contract was signed or marked. Other scholars, including David Galenson and Jack and Marion Kaminkow have used these contracts and compiled their own lists of information. See Galenson, *White Servitude in Colonial America*, 183–86 for a discussion of the servant registrations used in this study. In Appendix A Galenson states that 3,187 contracts survive from the eighteenth century; my own research indicates 3,192 contracts. My number, however, does not remove duplicate indentures or instances where servants were bound to two different agents for two different destinations. In addition, the number of servants contracted to work in Virginia also includes those contracts that indicate either Virginia *or* Maryland as their destination. For additional

Two different forms were used to bind indentured servants in London. The first was usually used to bind servants over twenty years of age, and the second for anyone younger. These contracts offer information regarding the names, ages, origins, destinations, and sometimes skills of those willing to enter servitude, along with information identifying the agent who signed them to the contract. The first form, used for servants over twenty years old, read as follows (the italicized information was written in by the recorder):

> These are to certify, that *Charles Grove of Petersfield In Hampshire Husbandman aged Thirty Three* came before me one of His Majesty's Justices of Peace, and Voluntarily made Oath that *[illegible]* Deponent *is* not Married, no Apprentice nor Covenant, or Contracted Servant to any Persons, nor listed Soldier or Sailor in His Majesty's Service, and *is* free and willing to serve *Peter Simpson* or His Assigns *four* Years in *Virginia* His Majesty's Plantation in America, and that *he is* not perswaded, or enticed so to do, but that it is *his* own Voluntary Act.
>
> Jurat *14th of November Dei Novembris*
> *1730* Coram me
> *Richd : Brocas*
>
> [Signed] *Charles Grove*

Grove's contract of indenture makes clear his origin, his age, his occupation, as well as the agent who bound him, how many years he would serve, and his destination. In addition, the contract establishes that Grove had not been forced into signing this indenture and that he was not bound out to anyone else or in the service to the king at the

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information on these contracts, see Jack Kaminkow and Marion Kaminkow, eds., *A List of Emigrants from England to America, 1718–1759* (Baltimore: Magna Carta Book Company, 1981). For information regarding the 1773–1776 register of emigrants see Galenson, *White Servitude in Colonial America* and Bernard Bailyn, *Voyagers to the West: A Passage in the Peopling of America on the Eve of Revolution* (New York: Knopf, 1986). Galenson claims that 3, 709 servants appear in this late eighteenth-century register (p. 186). Court cases involving servants were found in the York County Order Books, Library of Virginia, Richmond, Virginia and through the York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85.

time of his signing. Peter Simpson, the agent responsible for binding Grove, was a victualler in London, which meant that he most likely owned a tavern or inn, and it is possible that Grove, older than the average servant, had visited Simpson's inn or tavern and let Simpson know of his desire or need to bind himself as a servant. It is also quite likely that the information Grove had regarding being a servant in the Americas mirrored that written by Robert Beverley, in which the institution was praised for the way servants were treated, the work no different than that performed by all persons in the colonies, and masters were said to be kind. It would have been difficult to convince persons to agree to serve, otherwise. Servants under the age of twenty probably had the same vision of servitude and hoped that by signing a contract they could pay their dues as a servant to a white master and then themselves become masters in colonial Virginia.[7]

Isaac George, who signed his contract right after Charles Grove, might have believed the propaganda most likely relayed to him by Peter Simpson when he signed his contract:

> London
> The *14* Day of *November* One Thousand, Seven Hundred and *30*
>
> Memorandum, That *Isaac Grove of parish of Sherborn in Hampshire Labourer* did by Indenture bearing like date herewith, agree to Serve *Peter Simpson of London Victualer*, or his Assigns *Four* Years in *Virginia or Maryland (his Majesties plantation in America)* and did thereby declare *him*Self to be then of the Age *Nineteen* Years, a Single Person, and no Covenant, or Contracted Servant, to any other Person, or Persons. And the said Master did thereby Covenant at his own Cost, to send his said Servant to the Said Plantation; and at the like Costs to find h*im* all necessary Cloaths, Meat, Drink, Washing, and Lodging, as other Servants in such Cases are usually provided for, and allowed.

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[7] London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1727–1733," Box 2, CLA/047/LR/05/01/002. While I have kept the capitalizations and spellings as they were in the contracts, I did change the long s's (that look like f's) to s's. Victualler, *Oxford English Dictionary Online*, s.v. "victualler," accessed March 22, 2013, http://www.oed.com/view/Entry/223245?redirectedFrom=victualer#eid.

*Memorandum this 14th Day of*
*November 1730 this Said Isaac*
*George came before me acknowledged*
*his above [illegible]in my presence*
*& by my approbation*
*Richd : Brocas*

[Signed]
*The Mark of*
*Isaac " X"George*

George's contract, like that of Charles Grove, included the origin, occupation, age, destination, and length of service. What is different about George's contract, however, is that Peter Simpson—or whoever his master would eventually be—had to make clear that he would cover the cost of George's transportation and provide him with proper care provisions once in the Americas. What is also different about this contract is that George could not sign his name, and instead marked his contract with an "x," which suggests that he was most likely illiterate. Most of the contracts signed in London look very similar to these and illustrate the agreement made between servant and master and the understanding of their duties during the time of indenture.[8]

Of the over three hundred servants contracted to work in Virginia whose contracts survive, almost all of them were men, as is the case with the sample as a whole. Only 174 women in total agreed to serve in the Americas or the West Indies between 1718 and 1759, and they made up approximately 5.5 percent of the servants contracted in London. The largest number, making up slightly over 30 percent of the registered servants, arrived between 1683 and 1686. Virginia was the destination of about thirty women during the eighteenth century, which placed Virginia as the third most popular destination for women servants during the 1700s. Only Maryland and Pennsylvania contracted more

[8] London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1727–1733," Box 2, CLA/047/LR/05/01/002. While I have kept the capitalizations and spellings as they were in the contracts, I did change the long s's (that looks like f's) to s's.

London women. These numbers—in which men servants greatly outnumbered women servants—support the findings of previous studies and also indicate that colonists most likely preferred the work and skills of male laborers.[9]

Apprentices also arrived in Virginia from London during the eighteenth century, many of whom came from Christ's Hospital, a school created by Henry VIII to educate the poor children of England. Once their education was complete these children were bound out to ship captains, plantation owners, and merchants in both Europe and the Americas, including Virginia. Between 1702 and 1770 almost one hundred (mostly male) apprentices arrived in Virginia bound to a master in order to learn a trade and learn to read and write. Gerrad Stamp was bound out by Micajah Perry to serve Nathanial Burwell, a naval officer in Virginia, in 1709, and Richard Bate was bound to a merchant in 1770. Large numbers of young boys and girls were also bound in Virginia between 1623 and 1800, and during the eighteenth century alone almost two hundred apprentices were bound in York County and Williamsburg and 223 were bound in Augusta County. Richmond, Essex, and Accomack Counties had far fewer apprentices, with eighty-three between them, but they were still present and utilized for their labor throughout the eighteenth century. The contracts signed by some of these apprentices were different

[9] London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1718–1725," Box 1, CLA/047/LR/05/ 01/001; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1727–1733," Box 2, CLA/047/LR/05/01/002; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1734–1759," Box 3, CLA/O47/LR/05/01/003. My findings indicate that 327 contracts listed Virginia as their destination, and 291 of those contracts belonged to men, leaving only 36 some arriving via contract during the eighteenth century. I must reiterate here that these contracts probably only represent about 5–7 percent of the entire servant population (Galenson, 117). For the percentages, see Galenson, *White Servitude in Colonial America: An Economic Analysis*, 23, 24, 31, 32; Bailyn, *Voyagers to the West*; John Wareing, *Emigrants to America: Indentured Servants Recruited in London, 1718—1733* (Baltimore: Genealogical Publishing Co., Inc., 1985), 20, 24; Peter Wilson Coldham, *The Complete Book of Emigrants, 1700–1750* (Baltimore: Genealogical Publishing Company, 1992), vi–vii. For seventeenth-century numbers specific to the Chesapeake see James Horn, *Adapting to a New World: English Society in the Seventeenth- Century Chesapeake* (Chapel Hill: University of North Carolina Press, 1994).

from those designed to bind indentured labor, mostly due to the differences discussed in the introduction. Apprentices were guaranteed to learn a trade and receive some education while they were bound.[10]

> One York County apprentice, a mulatto, was bound with this contract in 1706:
>
> This Indenture made this 8th day of January 1706, witness that Abraham Royston, mulatto son of Elizabeth Chilmaid, late of York Co., dec'd., by and with the consent and advice of the worshipfull Justices of the County aforesaid, hath and by these presents according to an order of the said Justices bearing date Sepr. The 26th last past, doth put himself an apprentice with Thomas Holliday of the County aforesaid, Boatwright to learn the said mistery or occupacion of boat wrighting with him, said Thomas after a manner of an apprentice to dwell and serve for and during the span and terme of 7 yeares now next comeing. During all which time the said Abraham his said Master faithfull shall serve, his secrets keep, his comands lawfully everywhere in the said calling gladly do. Hurt to his said master he shall not do, nor suffer to be done of others, and in all things as a good and faifthfull apprentice he shall behave himself. And the said Thomas for his part doth covenant and agree the said Abraham the said mistery to learn, teach and instruct after the best way and means as he may or can. And allso to find and provide the said Abraham meet competent and sufficient diet, washing, and lodging and all other necessaryes meet and convenient for an apprentice of this collony during the said terme and at the expiracion thereof to give unto the said Abraham corn and clothe, according as is prescribed by the Law of this County for the conformacion of which each and both parties to these presents have set their hands and seales this day and year first above written. Wit. Wm. Randolph[11]

Royston, whose mother had passed away, was most likely left as an orphan upon her death; therefore, Thomas Holliday took him in as an apprentice to teach him the trade of a boatwright, or a boat builder. While the duties of Holliday—other than teaching him

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[10] Virtual Jamestown, "The Records of Christ's Hospital," http://www.virtualjamestown.org/christs_hospital/about_ch.html; Peter Wilson Coldham, *Child Apprentices in America from Christ's Hospital, 1617–1778* (Baltimore: Genealogical Publishing Company, 1990); Harold B. Gill Jr., *Apprentices of Virginia, 1623–1800* (Salt Lake City: Ancestry, 1989): York County and Williamsburg: 194 apprentices; Augusta County: 223 apprentices; Essex County: 15 apprentices; Accomack County: twelve apprentices; Richmond County: 54 apprentices (Note: these numbers are approximations, as the only apprentices that were recorded were those that showed up in the court transcripts or in runaway ads).

[11] Abraham Royston, York County, 1706: York County 1706–1710, 13, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 51.

boatwrighting—were similar to the obligations of masters of other servants, Royston had to promise to keep Holliday's secrets and remain faithful to Holliday while bound. Royston, like Isaac George and Charles Grove, whose contracts were presented earlier (and any other temporarily bound servant whose master honored the law), was to receive corn and clothes at the expiration of his contract, which lasted seven years. Royston was not to be treated any differently than other apprentices despite his being mulatto, but it is probable that his master, like those discussed here, did misuse him or abuse him, or failed to teach him the skills of a boatwright. This potential mistreatment, however, most likely would have occurred not because of Royston's race but because of his condition as a relatively powerless servant under the authority of a more powerful member of York County society.[12]

There has been much debate regarding the social origins of seventeenth- and eighteenth-century servants. The most common assumption during the mid-twentieth century was that most indentured servants were "rogues, vagabonds, whores, cheats, and rabble of all descriptions, raked from the gutter and kicked out of the country." While this assessment may have held for the large numbers of convicts transported to the Chesapeake from London during the eighteenth century, it certainly did not define the social origins of all of the servants either transported to or contracted in Virginia. Samuel Charles and William Perry were bound out in London by an agent named John Dykes, a London victualler, in 1719 and where the servant's occupation most often was written on the contract, both Charles and Perry were identified as "poor lad[s]," but this does not suggest that they were "rogues" or "vagabonds." Both were assigned to serve for eight

[12] Boatwright, *Oxford English Dictionary Online*, s.v. "boatwright," accessed March 22, 2013, http://www.oed.com/view/Entry/298450?redirectedFrom=boatwright#eid.

years, and it is probable that their parents were in fact destitute or that they were orphans and they believed they would have a better chance at success as servants in Virginia. Other young persons were bound as apprentices, and to assume they were "rogues" and "vagabonds" would also be incorrect. Part of the reason Clark, Perry, and other young apprentices were bound out was probably to deter them from becoming part of this "rabble." Moreover, other Virginia-born servants, like those children born to servant mothers, should also not be described as such; although, the treatment they and their fellow servants received during their bondage might have made them feel, if not like rogues and vagabonds, like slaves. Many servants who arrived from London during the eighteenth century were of the middling sort, having the necessary skills and occupational backgrounds to aid their masters in more than field work. And while a large number of servants—convicts included—arrived from London during the eighteenth century, a great proportion also arrived from Germany (redemptioners traveling to the mid-Atlantic colonies), Ireland, and Scotland. The sources used here document servants contracted in London and those servants who appear in Virginia county courts, most of whom are rarely identified as anything but "servant," leaving their origins and reasons for being bound unknown.[13]

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[13] Smith, *Colonists in Bondage*, 3. See also Menard, "British Migration to the Chesapeake Colonies in the Seventeenth Century," 127, 129–30; Galenson, *White Servitude in Colonial America*, ix, 47, 49, 127; Bailyn, *Voyagers to the West*, 129, 154, 160, 174–75. See also Bailyn, *The Peopling of British North America: An Introduction* (New York: Vintage Books, 1986); Mildred Campbell, "Social Origins of Some Early Americans" in James Morton Smith, ed., *Seventeenth-Century America: Essays in Colonial History* (Chapel Hill: University of North Carolina Press, 1959), 63–89; David W. Galenson, "The Settlement and Growth of the Colonies: Population, Labor, and Economic Development," in Stanley L. Engerman and Robert E. Gallman, eds., *The Cambridge Economic History of the United States. Volume I. The Colonial Era* (Cambridge: Cambridge University Press, 1996), 135–207 esp. 158; Dunn, "Servants and Slaves: The Recruitment and Employment of Labor," 169. William Perry and Samuel Clark, October 1719: London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1718–1725," Box 1, CLA/047/LR/05/ 01/001. Redemptioners, common in the eighteenth century, arrived in the colonies with no contracts. Instead, they were transported to the colonies with the understanding that they would have several days to find someone to pay their passage. This gave them the opportunity to choose their own

Despite not knowing for certain why some servants bound themselves to serve another, Old World conditions and New World incentives were most likely the motivations for most. The promise of "free" passage, proper treatment, freedom dues, and, in the seventeenth century, land, enticed many to enter temporary bondage. This incentive, though, was only one part of the decision. Economic successes and failures in their home countries, lack of opportunity, and religious persecution also played a role in their decisions to become servants. For women, despite the assumption that many bound themselves as a way to find a husband, most women were, in fact, coming to the colonies not to become wives but to sell their time and become, in large part, household laborers. By the end of the seventeenth century women servants were rarely requested and less desired than men.[14]

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master and, hopefully, reduce their term of service. If unable to find a willing master, the shipmaster would then sell them to satisfy their debt. Most redemptioners arrived as families in the Delaware Valley from German-speaking countries. See Smith, *Colonists in Bondage*, 20–21; Galenson *White Servitude in Colonial America*, 13–14; Bailyn, *Voyagers to the West*, 260; Richard B. Morris, *Government and Labor in Early America* (1946; reprint, New York: Harper and Row, 1965), 315–19; Morgan, *Slavery and Servitude in Colonial North America*, 47; Marcus Wilson Jernegan, "Economic and Social Influence of the Indentured Servant," in Marcus Wilson Jernegan, ed., *Laboring and Dependent Classes in Colonial America, 1607–1783, Studies of the Economic, Educational, and Social Significance of Slaves, Servants, Apprentices, and Poor Folk* (Chicago: University of Chicago Press, 1931), 45–56, esp. 47; Matthew C. Pursell, "Changing Conceptions of Servitude in the British Atlantic, 1640 to 1780" (Ph.D. dissertation, Brown University, 2005), 3; Neil E. Weiser, "The Subjective World of White Servitude in Eighteenth Century Maryland and Virginia" (Master's Thesis, Bowling Green State University, 1972), 16; Farley Grubb, "Labor, Markets, and Opportunity: Indentured Servitude in Early America, a Rejoinder to Salinger," *Labor History*, 39 (1998), 235–41, esp. 235, 240; Galenson, "The Settlement and Growth of the Colonies: Population, Labor, and Economic Development," 158. Sharon V. Salinger also discusses various "models of unfree labor," in her work, *"To Serve Well and Faithfully": Labor and Indentured Servants in Pennsylvania, 1682–1800* (Cambridge: Cambridge University Press, 1987), 5–17.

[14] Bailyn, *Voyagers to the West*, 7, 37, 175, 193–95, 197–200, 260; Smith, *Colonists in Bondage*, 44–57; Bailyn, *The Peopling of British North America*, 27–28; Menard, "British Migration to the Chesapeake Colonies in the Seventeenth Century," 131; Peter Wilson Coldham, *Emigrants from England to the American Colonies, 1773–1776* (Baltimore: Genealogical Publishing Company, Inc., 1988), v; Dunn, "Servants and Slaves: The Recruitment and Employment of Labor," 162–63, 169; Galenson, "The Settlement and Growth of the Colonies: Population, Labor, and Economic Development," 154–55; James Horn, "Servant Emigration to the Chesapeake in the Seventeenth Century," in Thad W. Tate and David L. Ammerman, eds., *The Chesapeake in the Seventeenth Century: Essays on Anglo-American Society* (Chapel Hill: University of North Carolina Press, 1979), 51–95, esp. 83–84, 87; Innes, ed., *Work and Labor in Early America*, 10; David W. Galenson "The Rise and Fall of Indentured Servitude in the Americas: An

In at least one documented case, one woman, Elizabeth Steedman, made what appears to be an atypical agreement to serve her mistress Joanna Archer. This indenture was registered in the York County court, but Steedman's contract is not part of the approximately 3,000 from London. While still in London in December 1731, Elizabeth Steedman bound herself to serve Joanna Archer in Virginia. The agreement stated that Steedman would receive £8 per year for four years. Unlike the majority of servants, Steedman was contracted to receive wages during her indenture. It is possible that the wages agreed upon by Archer and Steedman replaced the other provisions—food and clothing—masters and mistresses were to provide for their servants. Also included in the contract was a stipulation stating that if Steedman decided she did not want to remain in Virginia after one year, Archer would pay for her return passage to London. In May 1732 both women appeared in court to make a change to the original contract. From 1732 forward Archer agreed to pay Steedman £6 for her passage to Virginia and £5 in wages for her time served. Archer also released Steedman from service, and Archer was discharged "from all [other] covenants & agreements" written into the original contract;

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Economic Analysis," *Journal of Economic History*, 44 (March 1984), 1–26, esp. 9; David W. Galenson, "British Servants and the Colonial Indenture System in the Eighteenth Century," *Journal of Southern History*, 44 (February 1978), 41–66, esp. 54, 60; Galenson, *White Servitude in Colonial America*, 25, 94; Edwin J. Perkins, *The Economy of Colonial America* (2nd ed.; New York: Columbia University Press, 1988), 151; Jacqueline Jones argues that because white women were exempt from being listed as tithables, planters were not supposed to use their white women servants in the fields. See Jones, *American Work*, 41. John Ruston Pagan suggests that female servants undoubtedly worked in the fields throughout the seventeenth century but were replaced by slaves in during the eighteenth century and Christopher Tomlins claims they worked in the fields until the "masculinazation of law, politics, and the public sphere" in the eighteenth century. See John Ruston Pagan, *Anne Orthwood's Bastard: Sex and Law in Early Virginia* (New York: Oxford University Press, 2003), 19 and, *Freedom Bound*, 393. Margaret Kellow explains that "the assumption that [servant women] did not undertake field work in the colonies has made their persistence in the servant population difficult to explain." Margaret M. R. Kellow, "Indentured Servitude in Eighteenth-Century Maryland." *Histoire Sociale*, 34 (November 1984), 229–55, quotation on p. 239. By the mid-seventeenth century, Christine Daniels asserts, field work was considered "improper" for white women, although white servant women worked in the tobacco fields into the mid-eighteenth century. Daniels, "Alternative Workers in a Slave Economy: Kent County, Maryland, 1675–1810," 225.

therefore, Archer was no longer obligated to pay for Steedman's return passage to London, but she was also without a servant. The original agreement between Steedman and Archer indicates a previously established relationship of some kind. The wages and promise of paid return passage suggest that Archer indented Steedman only to get her to Virginia, and once there, Steedman was able to work as a servant but received wages and was most likely biding her time until she could marry. Therefore, Steedman, unlike many other women, did arrive in Virginia in order to get married. In this case Steedman's temporary bondage was uncharacteristically brief and included wages, and Steedman was able to free herself within one year.[15]

The occupations of those servants arriving from London varied significantly throughout the eighteenth century. During the seventeenth century, the majority of servant men probably had some farming experience and worked the land of their masters while bound, but in the eighteenth century male servants were more likely to have occupational skills not related to agricultural work. Servants arriving in Virginia from London between 1718 and 1759 had a range of occupations. Francis Hollingshead, a nineteen-year-old miller was bound to serve in Virginia for five years in January 1734. John Irons, John Lopper, Thomas Bennett, and Thomas Sillito were butchers bound between December 1733 and November 1739 for terms ranging from four to six years. Also arriving in the colonies during the eighteenth century were ten cordwainers, or shoemakers, over thirty tailors, as well as four wig makers. Thomas Prigg was a cooper bound in 1720 at the age of twenty-one, and William Brown was also a cooper who signed a contract in 1750 at the age of eighteen. Other servant occupations included

[15] Elizabeth Steedman, York County, 1732: York County Deeds, Orders, Wills, 1729–1732, 17, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 293.

carpentry, husbandry, footmen, and bakers. One York County servant, Charles Stagg, along with his wife, was employed as a dancing master. It is difficult to assess whether the majority of these servants were exclusively employed to use their particular skills, although it is likely that their specific skills were put to use in addition to other work. It is also probable that masters owning both servants and slaves employed their servants in skilled labor and left the unskilled labor to the enslaved.[16]

The skilled servants present in eighteenth-century Virginia were largely male; female servants remained unskilled and tied to domestic service. The majority of women arriving in Virginia were identified as spinsters, with only four of the thirty-seven labeled differently. Mary Randall's contract was void of an occupation, Meridith Hestor and Mary Johnston were identified as widows, and Mary Walley was a housemaid. Skilled female servants were the exception; therefore women like Mary Stagg, the wife and

[16] Francis Holligshead, January 1734; John Irons, December 1733; John Lopper, January 1734; Thomas Bennett, January 1737; Thomas Sillito, November 1739; Thomas Prigg, September 1727; William Brown, April 1751: London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1718–1725," Box 1, CLA/047/LR/05/ 01/001; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1727–1733," Box 2, CLA/047/LR/05/01/002; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1734–1759," Box 3, CLA/O47/LR/05/01/003. Charles and Mary Stagg, York County, 1716: York County Deeds, Orders, Wills, 1720–1729, 16, reel 18 (microfilm), Library of Virginia, Richmond, Virginia, 52, 54.The Staggs were not the only servant dancing masters, several masters advertised for their runaway servants—who also happened to be dancing masters—in the Virginia *Gazette* throughout the eighteenth century. See Amy Stallings, "Dance During the Colonial Period," *Encyclopedia Virginia*, edited by Caitlin Newman, November 26, 2012. Virginia Foundation for the Humanities. January 31, 2012, http://www.EncyclopediaVirginia.org/Dance_During_the_Colonial_Period. Galenson, *White Servitude in Colonial America*, 49, 51–63; Bailyn, *Voyagers to the West*, 215, 243; Pursell, "Changing Conceptions of Servitude in the British Atlantic, 1640 to 1780," 6; Horn, "Servant Emigration to the Chesapeake in the Seventeenth Century," 59; See also Galenson, "British Servants and the Colonial Indenture System in the Eighteenth Century," 46; Daniels, "Alternative Workers in a Slave Economy: Kent County, Maryland, 1675–1810," 487; Bailyn, *The Peopling of British North America*, 62–64; Margaret M. R. Kellow asserts that even during the eighteenth century, most servants, at least in Maryland, were agricultural laborers. See Kellow, "Indentured Servitude in Eighteenth-Century Maryland," 247. For a discussion of the use of servants and slaves, see Galenson, "White Servitude and the Growth of Black Slavery in Colonial America," 41; Galenson "The Rise and Fall of Indentured Servitude in the Americas: An Economic Analysis," 12.

dancing partner of Charles Stagg, were far from common. While white women sometimes worked in the fields, most served within the home.[17]

That women servants were put to work within the household is not unusual; household work constituted the majority of the work performed by all white women during the colonial era. Women performed specific duties within the household, including food preparation, manufacturing goods, distributing those goods, house work, child care, and training and supervising other women within the household, including servants.[18]

The tasks performed by servant women were not servant-specific tasks. Other women within the household, both enslaved and free, performed similar duties. Some servants were contracted to relieve the burden of planting and middling wives as they struggled to maintain their children and their homes. Other servant women performed tasks such as cooking, carding, spinning, weaving, sewing, mending, and washing clothes. Some servant women were also put to work outside either alongside slaves or

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[17] Mary Randall, August 1718; Meridith Hestor, September 1718; Mary Johnston, January 1750; Mary Walley, March 1739: London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1718–1725," Box 1, CLA/047/LR/05/ 01/001; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1727–1733," Box 2, CLA/047/LR/05/01/002; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1734–1759," Box 3, CLA/O47/LR/05/01/003; Charles and Mary Stagg, York County, 1716: York County Deeds, Orders, Wills, 1720–1729, 16, reel 18 (microfilm), Library of Virginia, Richmond, Virginia, 52, 54. See also Thomas J. Wertenbaker, *The Shaping of Colonial Virginia* (New York: Russell and Russell, 1910), 49; Galenson, "British Servants and the Colonial Indenture System in the Eighteenth Century," 41–66, 46. Seventeenth-century servants also engaged in a variety of trades. See Horn, "Servant Emigration to the Chesapeake in the Seventeenth Century," 59; Sheridan, "The Domestic Economy," 63.

[18] Jeanne Boydston, *Home and Work: Housework, Wages, and the Ideology of Labor in the Early Republic* (New York: Oxford University Press, 1990), 11–12.

tending gardens and gathering food. Domestic work was often demanding, sometimes dangerous, and never complete.[19]

The average age of servants arriving in Virginia from London during the eighteenth century was about eighteen years old, slightly lower than the average age of all contracted servants from London. It must be remembered, however, that these statistics only represent a small proportion of Virginia's servants. Apprentices, convicts, customary, and locally bound servants are not included in these numbers. And it is likely that their inclusion might lower the average age of servants bound in eighteenth-century Virginia, as apprentices and the children of servant women were bound at a very young age, and many were contracted until they were at least twenty-one years old. Of the women who arrived in Virginia from London during the eighteenth century, most were

[19] Perkins, *The Economy of Colonial America*, 152; Salinger, *To Serve Well and Faithfully*, 100. See also Bailyn, *Voyagers to the West*, 260; Coombs, "Building 'The Machine': The Development of Slavery and Slave Society in Early Colonial Virginia," 11; Daniels, "Alternative Workers in a Slave Economy: Kent County, Maryland, 1675–1810," 45. Most scholarship regarding women's work in the colonial South focuses on enslaved women or their slaveholding mistresses. Little has been done outside of the plantation itself. While some historians have aimed to change that in the past several years, the work of servant women is still underrepresented. For work on enslaved women see Jennifer L. Morgan, *Laboring Women: Reproduction and Gender in New World Slavery* (Philadelphia: University of Pennsylvania Press, 2004); Jacqueline Jones, *Labor of Love, Labor of Sorrow: Black Women, Work, and the Family from Slavery to the Present* (New York: Basic Books, 1985); David Barry Gaspar and Darlene Clark Hine, eds., *More than Chattel: Black Women and Slavery in the Americas* (Bloomington: Indiana University Press, 1996); and Stephanie M. H. Camp, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South* (Chapel Hill: University of North Carolina Press, 2004). For work on plantation mistresses and upper-class southern women during the colonial era see Julia Cherry Spruill, *Women's Life and Work in the Southern Colonies* (Chapel Hill: University of North Carolina Press, 1938); Linda E. Speth and Alison Duncan Hirsh, *Women, Family, and Community in Colonial America: Two Perspectives* (New York: Institute for Research in History and Haworth Press, 1983); Cynthia A. Kierner, *Beyond the Household: Women's Place in the Early South, 1700–1835* (Ithaca: Cornell University Press, 1998). See also Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*. For more recent scholarship on women on the margins see Susanna Delfino and Michele Gillespie, eds. *Neither Lady Nor Slave: Working Women of the Old South* (Chapel Hill: University of North Carolina Press, 2002).

under the age of eighteen, while the average age of all women contracted between 1718 and 1759 was just over eighteen.[20]

Male servants arriving in the colonies had variable literacy throughout the colonial period, as illustrated by the potential literacy of Charles Grove, who was able to sign his London contract, and the illiteracy of Isaac George, who marked his contract with an "x." Many scholars have based literacy on whether or not servants were able to sign their name to their contracts. In the absence of any other evidence, historians must take what they can get, but learning to spell one's name did not always mean that one could read and write. Hence, the limited sources written by servants during the seventeenth and eighteenth centuries. Men with trades seem to have been the most literate group of servants, and it must be kept in mind that many apprentices were taught to read and write by their masters. In the available London sample, 212 of the servants sent to Virginia were able to sign their name, leaving 115 who only marked their contracts with an "x." Only 10 of the literate 212 were women.[21]

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[20] London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1718–1725," Box 1, CLA/047/LR/05/ 01/001; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1727–1733," Box 2, CLA/047/LR/05/01/002; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1734–1759," Box 3, CLA/O47/LR/05/01/003. The average age of all servants arriving in Virginia from London was 18.43, while the average age of all London servants was 19.49. It must be considered that the ages of all servants were not recorded, but the majority certainly were (The ages of 155 servants out of the 3,192 contracted to the colonies were not recorded. Of the 327 servants contracted to Virginia, eighteen of them did not have their ages recorded, only one of whom was a woman). See also Galenson, *White Servitude in Colonial America: An Economic Analysis*, 25–33. The average age of women contracted to Virginia was 17.69 and the average age of the 174 women arriving in the colonies during the eighteenth century was 18.52. See also Campbell, "Social Origins of Some Early Americans," 74.

[21] Galenson, *White Servitude in Colonial America*, 65–78; Galenson, "British Servants and the Colonial Indenture System in the Eighteenth Century,"–51, 56–58; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1718–1725," Box 1, CLA/047/LR/05/ 01/001; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1727–1733," Box 2, CLA/047/LR/05/01/002; London Metropolitan Archives, "Memoranda of Agreements to Serve in America and the West Indies, 1734–1759," Box 3, CLA/O47/LR/05/01/003.

For those servants coming from London and elsewhere in Europe, their experience began with a transatlantic passage. They, like all free and other unfree persons arriving from both Europe and Africa, traveled aboard ships that carried a variety of human and material cargo intended for the colonies of North America and the West Indies. The voyage itself was an introduction into some of the realities these men and women would face as servants.

In 1750 Gottlieb Mittelberger, a German redemptioner, wrote about his voyage to Philadelphia, citing the difficulties of the trip and the conditions of others aboard. Mittelberger's journey began with a seven week trip from his hometown of Enzweihingen to Rotterdam, and then another lengthy voyage from Rotterdam to England. After a nine-day delay in England, he and the approximately four hundred other passengers spent fifteen weeks crossing the Atlantic.[22]

The experience aboard the ship was one common to many transported servants and convicts throughout the eighteenth century, and it was one of misery. "The ship," Mittelberger wrote, "is full of pitiful signs of distress—smells, fumes, horrors, vomiting, various kinds of sea sickness, fever, dysentery, headaches, heat, constipation, boils, scurvy, cancer, mouth-rot, and similar afflictions, all of them caused by the age and the high-salted state of the food, especially of the meat, as well as by the very bad and filthy

[22] Gottlieb Mittelberger was a German redemptioner who arrived in Philadelphia in 1750. He only remained in the colonies for four years, returning to Germany in 1754. While in Pennsylvania, Mittelberger worked as an organist and school teacher, and he gave private lessons in German and music to the family of Captain von Diemer. His goal in writing this account "was the sad and miserable condition of those traveling from Germany to the New World, and the irresponsible and merciless proceedings of the Dutch traders in human beings and their man-stealing emissaries." Gottlieb Mittelberger, *Journey to Pennsylvania*, edited by Oscar Handlin and John Clive (Cambridge, Mass., Belknap Press, 1960), 7–9 (quotation on p. 9). On average, ships carried approximately three hundred passengers; although, some ships transported as many as six hundred, as agents tried to make as much money as possible. See, "Economic and Social Influence of the Indentured Servant," 50.

water, which brings about the miserable destruction and death of many." The poor quality of provisions, then, was a major cause of the misery of a ship's passengers, as large amounts of spoiled food were regularly thrown overboard. The food rations, even when not spoiled, were very small and not likely to sustain the servants from day to day: "warm food is served only three times a week, and at that is very bad, very small in quantity, and so dirty as to be hardly palatable at all. And the water distributed in these ships is often very black, thick with dirt, and full of worms." John Harrower, who documented his own voyage in 1774, also spoke of the poor provisions, the sickness, and even the deaths that occurred during the voyage.[23]

In addition to the miseries having to do with illness and the lack of food, those not vexed by those ills often grew restless. A general unease seems to have descended upon the ship, as evidenced by examples offered by Mittelberger. "Misery and malice are readily associated, so that people begin to cheat and steal from one another. And then one always blames the other for having undertaken the voyage. . . . Many groan and exclaim: 'Oh! If only I were back at home, even lying in my pig-sty!'" These people—soon to be

[23] Mittelberger, *Journey to Pennsylvania*,12, 15 (first quotation on p. 12; second quotation on p. 15). Marcus Wilson Jernegan compared the transatlantic transport of servants to the Middle Passage of enslaved Africans in Jernegan, "Economic and Social Influence of the Indentured Servant," 50. See also Farley Grubb, "Morbidity and Mortality on the North Atlantic Passage: Eighteenth-Century German Immigration," *Journal of Interdisciplinary History*, 17 (Winter 1987), 565–85 for a discussion of mortality rates of German emigrants to Pennsylvania during the eighteenth century, and Bailyn *Voyagers to the West*, 316–19; Smith, *Colonists in Bondage*, 214; A. Roger Ekirch, *Bound for America: The Transportation of British Convicts to the Colonies, 1718–1775* (New York: Oxford University Press, 1987), 97–110; See also Paul Bryan Howard, "Had on and Took with Him: Runaway Indentured Servant Clothing in Virginia, 1774–1778" (Ph.D dissertation, Texas A&M University, 1996), 12. Roger Ekirch also describes a typical week's food ration on board convict ships: 1.2 pounds of beef and pork, 13.3 ounces of cheese, 4.7 ounces of bread, half a quart of peas, 1.7 quarts of oatmeal, 1.3 ounces of molasses, half a gill of gin, and 5.3 gallons of water. These rations, Ekirch states, equaled approximately 1,200 calories a day and were probably "not administered faithfully." Ekirch, *Colonists in Bondage*, 100. See also Bailyn, *Voyagers to the West*, 319; John Harrower, *The Journal of John Harrower: An Indentured Servant in the Colony of Virginia, 1773–1776*, edited by Edward Miles Riley (Williamsburg: Colonial Williamsburg, Inc., 1963), 22, 23, 24–25. See also Aaron Fogleman, "From Slaves, Convicts, and Servants to Free Passengers: The Transformation of Immigration in the Era of the American Revolution," *Journal of American History*, 85 (June 1998), 43–76, 56.

servants—"bec[a]me homesick at the thought that many hundreds of people must necessarily perish, die, and be thrown into the ocean in such misery." Some shipmasters even feared mutiny. The experience, once over, was only the first of many hardships experienced by those servants transported—either voluntarily or involuntarily—to serve another. And this account suggests that these servants arriving from Europe experienced a voyage that in some ways can be compared to that endured by African slaves. While these servants were not chained together and made to cross the Atlantic below deck, they experienced the same illnesses and the same desires to return to their families. Again, there were certainly many differences in how slaves and servants arrived in the colonies, but to even be able to draw some comparisons illustrates that servants arrived in Virginia as bonded laborers willing to bind themselves temporarily to white masters with whom they shared a so-called racial solidarity in order to have their passage paid for.[24]

Once in port, servants were not allowed to leave the ship until their passage was paid for by their new master; and, after 1766 in Virginia, until after the ship had been quarantined. According to Virginia law any ship arriving from places infected with the plague was to be quarantined, but there is no indication as to how long the ship was to remain quarantined. Additionally any ship arriving with indentured servants or convict servants infected with smallpox was also to be held offshore. And every shipmaster arriving with indentured and convict servants was to have their ship registered with the naval office before taking shore, at which time they also took an oath swearing to the health of their passengers. Once the ships transporting servants were registered, servants could not be sold until they were made to look presentable for potential buyers, who then

[24] Mittelberger, *Journey to Pennsylvania*, 13–14 (quotation); Harrower, *The Journal of John Harrower*, 20.

came aboard and surveyed the bound laborers. In the case of John Harrower's ship, servants were sold over a series of days, some to masters and others to men he describes as "Soul drivers." Soul drivers were "men who make it their bussines to go on board all ships who have in either Servants or Convicts and buy sometimes the whole and sometimes a parcel of them as they can agree, and then they drive them through the Country like a parcel of Sheep untill they can sell them to advantage." James Revel, a transported convict, was evaluated for both his physical attributes and his skills: "And in short time some men up to us came/Some ask'd our trade, others ask'd our name/Some view'd our limbs turning us around/Examining like horses if we were found/What trade my lad, said one to me/A tin man, sir. That will not do for me." Once purchased, Revel was put in chains, like a slave, and taken to his new master's home, where he worked alongside both servants and slaves. It appears as though his master did not see much difference between Revel and his other bonded laborers. He did not feel any sense of commonality with Revel due to his whiteness; instead, Revel was another bonded laborer for him to employ and most likely exploit. After being purchased, many servants were taken before the courts to have their ages adjudged, so as to ensure that their masters could bind them for as long as possible. During the early 1700s, a large number of servants appeared before the York County courts to have their ages recorded. In 1700, seven servants arrived aboard the *Harridge Prize* and had their ages documented by the courts. These customary servants—John Beng, Jane Cantiwell, Edmond Calloy, Philip Cain, Morris Hickey, James Herne, and Nicholas Dullard—ranged in age from ten to nineteen. James Herne, who was nineteen, most likely served five years—until he reached twenty-four—as written in law. Nicholas Dullard also served until he was

twenty-four, but since he was only ten years old when he arrived on the *Harridge Prize*, that meant he was bound to serve out a fourteen-year contract. Sometime between February 1710 and December 1711, another large group of servants arrived. Eight Scottish servants—seven of whom were contracted to Edmond Jennings—arrived on the *James of Montrose* and were taken before the court, but no ages were given; therefore it is unclear how long these Scottish customary servants were bound and if Jennings employed all of them or if he bound them out to other masters. Other servants, not involved in these larger transports, also had their ages adjudged.[25]

Between 1700 and 1745 several customary servants were presented before the York County court justices to have their ages recorded. Many of these servants—like those just discussed—arrived on ship. These servants ranged in age from nine to sixteen, and one, John Fara, was bound out as an apprentice. Fara's master Dunn Armistead took him before the court to have his age adjudged (Fara was fourteen), and unlike other customary servants, it appears as though he initially agreed to serve Armistead for five

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[25] "An Act to Compel Ships Importing Convicts or Servants Infected with the Goal Fever or Small-pox to Perform Quarantine (1766)," Chapter XLI, *Hening's Statutes at Large*, VIII, 260–61; "An Act to Compel Ships Importing Convicts, Servants, or Slaves Infected with the Gaol Fever, or Small Pox, to Perform Quarantine (1772)," Chapter XIX, *Hening's Statutes at Large*, VIII, 537–38; Jernegan, "Economic and Social Influence of the Indentured Servant," 51. See also Smith, *Colonists in Bondage*, 51, 221; Frederick Hall Schmidt, "British Convict Servant Labor in Colonial Virginia" (Ph.D. dissertation, College of William and Mary, 1976), 127; Bailyn, *Voyagers to the West*, 323; Harrower, *The Journal of John Harrower*, 39 (first and second quotation); James Revel, *The Poor Unhappy Transported Felon's Sorrowful Account of His Fourteen Years Transportation, at Virginia, in America* (York: C. Crowshaw Coppergate, 1800). Electronic Edition, 4–5 (third quotation on p. 4). Servants aboard the *Harridge Prize*, York County, 1700: York County Deeds, Orders, Wills, 1698–1702, 11, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 334; York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85. Servants aboard the *James of Montrose*: Archibald Stewart; James Steward; Alexander Hull; William Sewter; John Gordon; Robert Downce; Ringing Mitchell; and Robert Lay, York County, 1710–1711: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 5–6.

years, but once he was before the court, Fara stated that he would serve Armistead for seven years if he could be bound as an apprentice instead. During his indenture he was to be taught the shoemaking trade. Not all servants who appeared before the court to have their ages adjudged were identified as having arrived from abroad. Some customary servants might have arrived in the county from a neighboring county or colony, but they were still required to have their ages recorded so that their masters knew how long they could be bound to serve. George McFarlin's age was recorded as ten years old in 1720, John Kent's as sixteen in 1734, and David Robinson and David Brown—bound out to the same master—were adjudged at fourteen years old in 1741.[26]

The largely young, male, relatively skilled work force that worked in Virginia during the eighteenth century came both at will and involuntarily. This mostly white source of bound labor was by no means equal to those for whom they worked and were often treated in ways similar to the enslaved Africans in their midst. While members of the master class were publishing broadsides touting the benefits of servitude and the

[26] John Butler, York County, 1700: York County Deeds, Orders, Wills, 1698–1702, 11, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 365; Simon Murphy, York County, 1700: York County Deeds, Orders, Wills, 1698–1702, 11, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 382; Samuel Cheshire, York County, 1701: York County Deeds, Orders, Wills, 1698–1702, 11, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 383; Thomas Stone, York County, 1702: York County Deeds, Orders, Wills, 1698–1702, 11, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 594; Charles Elliott, York County, 1706: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 404; Cain Mahone, York County, 1716: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 139; Samuel Kilpatrick, York County, 1717: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 153; Tobias Wilhoit, York County, 1718: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 215; David Masterson, York County, 1719: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 454; Andrew Anderson, York County, 1729: York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 599; John Fara, York County, 1745: York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 387; George McFarlin, York County, 1720: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 584; John Kent, York County, 1734: York County Deeds, Orders, Wills, Inventories, 1732–1740, 18, reel 9 (microfilm), Library of Virginia, Richmond, Virginia153; David Robinson and David Brown, York County, 1741: York County Orders, Wills, and Inventories, 1740–46, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 40.

relative benevolence of the institution, actual servants who lived and experienced temporary bondage were writing home and saying quite the opposite. Beverley argued that servants did not work long hours or engage in labor any different from that of their masters. He also guaranteed that servants were provided for because the law guaranteed that they would be. But Elizabeth Sprigs claimed to be worked from the early morning until late in the day and compared herself to a slave and complained of insufficient food and clothing. Servants were considered for their potential productivity, be that on large plantations or small farms, and masters were willing to exploit their labor because of their bonded condition. Most masters did not give any consideration to the color of their servants' skin. They only considered their condition as bonded laborers. And while there were most certainly many servants who completed their terms without complaint against their masters, or those, like Elizabeth Steedman and John Fara, who were able to negotiate better terms for themselves, many servants in eighteenth-century Virginia experienced something very different. Despite Beverley's promise that servants were protected by the law, many masters found ways to manipulate and exploit their servants which often led to an extension of service; and female servants most often fell victim to this extension as many became pregnant during their terms. Masters of female servants not only exploited them because they were bound but because they were women.

# CHAPTER 2
# FORNICATION, BASTARDY, AND MARRIAGE: THE FEMALE SERVANT EXPERIENCE

Between 1668 and 1669 Henry Smith, a resident of Accomack County, appeared in the court record on multiple occasions, most having to do with his treatment of women, both free and unfree. Smith was not only accused of adultery and rape but also infanticide and violence against various women in Accomack County. His wife, Joanna, testified that Smith had both physically and verbally assaulted her and had even threatened to kill her. His servants reported that they worked long hours, were fed little, beaten often, and lacked the proper provisions guaranteed to them by law. Smith often made sexual advances toward them, and they were unable to fend him off. When Smith found out that one female servant, Mary Hues, planned to file a formal complaint against him, he physically prevented her from doing so. It was not until a year later that Hues was able to file her petition. Smith later raped Hues. Mary Jones, another of Smith's servants, was raped in 1662 and was kept from leaving the Smith property. She was also unlawfully held as a servant after the expiration of her indenture. While Henry Smith was found guilty of adultery and fathering bastard children by the Accomack County court, he would have to appear before the General Court to answer the rape charges, but was found not guilty in 1670. Mary Hues and Mary Jones, the two rape victims, were forced to serve Smith additional time, for the time lost during the court proceedings.[1]

[1] Irmina Wawrzyczek, "The Women of Accomack Versus Henry Smith: Gender, Legal Recourse, and the Social Order in Seventeenth-Century Virginia," *Virginia Magazine of History and Biography*, 105 (Winter 1997), 5–26, esp. 5, 15–20. See also Accomack County Order Book, 1666–1670, reel 78 (microfilm),

While the experiences of free and unfree women with Henry Smith—and the court records that document them—were by no means typical in early Virginia, these experiences do illustrate the relative powerlessness of women both within the household and, sometimes, within the courts. Smith was found guilty of some of his crimes, but through the use of intimidation he was also able to deter a servant woman from immediately turning him in after he raped her. Gender and power most certainly played a central role in Smith's treatment of women, and while he appears to have raped only his servant women, he also mistreated free women, which suggests that while the woman's condition might have played a role in how Smith exploited them, it was because they were women that he even attempted to assert his power over them. Regardless of his guilt before the Accomack County court, the women who suffered under Henry Smith were afraid, not only of him, but also of the social stigma that would be attached to them for having had extramarital relations or giving birth to bastard children, whether they were forced into it or not. For servant women, having a bastard child or being accused of fornication while under contract was an additional stigma to overcome, since being a servant and even a woman carried with it negative societal implications. Servant women were rarely exonerated from these accusations in Virginia county courts and were most often forced to remain in servitude beyond their original contracts.

Throughout the eighteenth century, Virginia masters used the county courts to their advantage, much like Henry Smith, especially in cases dealing with female servants. While their actions towards servants were usually not as egregious as those of Smith—although there were most likely some who exploited their servants in much the same

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Library of Virginia, Richmond, Virginia; Richard B. Morris, *Government and Labor in Early America* (1946; New York: Harper and Row, 1965), 491–96.

way—by accusing women servants of fornication or bastardy, and proving it, many masters were able to extend the indentures of these women, gaining extra service from the women and sometimes their offspring. This suggests that masters of female servants were often more concerned with the unfree condition of their laborers than with their race. It also indicates that gender continued to shape the ability of masters to exploit their women servants into the eighteenth century, and that Virginia laws were structured to give masters this advantage. Scholars like Kathleen M. Brown and Terri L. Snyder who outline the struggles of women—including women servants—in the seventeenth century could argue much the same for servant women of the eighteenth century, as their struggles regarding gender, status, and power persisted. Free Anglo-American men—large planters and middling and small farmers alike—attempted to maintain their power and authority both within the household and in society.[2]

Like enslaved women, who Jennifer L. Morgan argues were exploited for both their productive and reproductive labor, many female servants might have been used in much the same way. While masters were certain to lose several weeks or months of labor productivity from their pregnant servants, Virginia law allowed them to regain that time. Servant women who became pregnant during their term of service were made to serve their masters for an additional year after the expiration of their indenture. Moreover, the child of the servant woman, while

[2] Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill: University of North Carolina Press, 1996); Terri L. Snyder, *Brabbling Women: Disorderly Speech and the Law in Early Virginia* (Ithaca: Cornell University Press, 2003); "'To Seeke for Justice': Gender, Servitude, and Household Governance in the Early Modern Chesapeake," in *Early Modern Virginia: Reconsidering the Old Dominion* edited by Douglas Bradburn and John C. Coombs (Charlottesville: University of Virginia Press, 2011), 129–57.

not always bound by the servant's master, *was* bound to serve. He or she was usually handed over to the churchwardens of the parish, who then bound them out to someone in the community. The churchwardens did this in order to ensure that the parish would not be responsible for caring for the child with poor relief funds. And because of this another freeholder in the county was able to benefit from the institution of servitude and the Virginia-born laborer they employed. Women servants, while escaping the daily hardships of permanent bondage, lived lives much closer to unfreedom than to freedom while bound. They were neither enslaved nor free, and although many were white and legally able to take their masters to court, those who appeared before the court while pregnant did not benefit from this right. They were exploited for both their productive and reproductive labor, and their masters and mistresses profited from not only their servile condition but also their physical condition even before the court. For those servant women who were denied the right to marry and were accused of fornication and bastardy, servitude was made even more difficult than it was for their male counterparts.[3]

The female servant experience was not as straightforward and trouble-free as Robert Beverley observed in 1705 when he claimed that the institution of servitude was relatively benign and that masters did all they could to avoid exploiting their servants. While some women servants most likely did not work in the fields, most were made to complete whatever work was required of the specific household they served, domestic or otherwise. They were also at the mercy of their master or mistress when it came to how

[3] Jennifer L. Morgan, *Laboring Women: Reproduction and Gender in New World Slavery* (Philadelphia: University of Pennsylvania Press, 2004). For a discussion of the actions of masters and lawmakers regarding sexual conduct and control, see Irmina Wawrzyczek, "Plantation Economy and Legal Safeguards of Sexual Discipline in Early Tobacco Colonies," in Helle Porsdam, ed., *Folkways and Law Ways: Law in American Studies* (Gylling, Denmark: Odense University Press, 2001), 33–51.

they were treated. Just because their master agreed to certain conditions upon signing a contract of indenture did not mean that masters abided by the law. Most only followed statutory law when it benefited them. Servants were mistreated and exploited, and "the Cruelties and Severities" reported by observers were not "an unjust Reflection" of the lives of servants and slaves in eighteenth-century Virginia.[4]

A majority of the cases involving women servants that came before the Virginia county courts during the eighteenth century had to do with fornication and bastardy. In York County over thirty women were taken before the court to answer bastardy or fornication charges during the first half of the eighteenth century. Servant women committing what was deemed a crime were easily identified due to their changing physical condition. Bastard children were a common occurrence in colonial Virginia, and while pregnancy might have led to an interruption in the work of female servants, that interruption most likely did not last very long. But most servant women who became pregnant while bound were made to serve their masters additional time for what their masters argued was time lost; therefore pregnancy could be an economic gain for the master. According to law, the reason for the extension of their indentures was for the loss of time and the trouble brought to the masters' home while their female servant was pregnant, but it is likely that these women were expected to continue with their daily tasks as long as they were able. Bastardy was against the law and therefore led to punishment of the offending parties, but if women servants

[4] Robert Beverley, *The History and Present State of Virginia*, edited by Louis B. Wright (Chapel Hill: University of North Carolina Press, 1947), 271–74 (quotations on p. 274).

became pregnant, masters gained an advantage due to the extension of their indenture and the possible binding out of the woman's child. The county parishes also benefited from bastardy cases, taking in and binding out bastard children—and sometimes the servant woman—and receiving compensation from the father for the care of the child. Despite the master's losing some of their servant's time while she was pregnant, they invariably benefited from these cases. If the servant was unable to work during her pregnancy, the master lost nine months at most, but the law required an additional year of service once the woman gave birth.

Masters were able to exploit the legal system and the limited rights and gender of their female servants. Although the courts may have readily justified the laws against bastardy and fornication as a way to uphold moral values, seeing that in the eyes of the law "adultery, whoredome [and] fornication" were considered "high & foule offences," it was in fact a way for masters to profit and keep women bound to service by extending their time in bondage, delaying their freedom, and exploiting both their productive and reproductive labor. Had servants been allowed to marry, many never would have appeared before the court at all.[5]

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[5] This number of women who appeared before the York County court for fornication and bastardy is based on my own calculations from the York County Order Books between 1700 and 1743; Clinton M. Dunning, "Servitude and Crime in Colonial Virginia," (Master's Thesis, University of Wyoming, 1955), 78; Morris, *Government and Labor in Early America*, 350; "Act I (1643)," William Waller Hening, *The Statutes at Large: Being a Collection of all the Laws of Virginia from the First Session of the Legislature, in the Year 1619* (13 vols.; Richmond: R. & W. & G. Bartow, 1819–1823), online edition, transcribed by Freddie L. Spradlin for vagenweb.org (hereafter *Hening's Statutes at Large*), I, 240 (quotations). See Wawrzyczek, "Plantation Economy and Legal Safeguards of Sexual Discipline in Early Tobacco Colonies," 33–51, esp. 36–37, 40. See John Ruston Pagan, *Anne Orthwood's Bastard: Sex and Law in Early Virginia* (New York: Oxford University Press, 2003) for a seventeenth-century case that argues that Assembly members were "[e]ver sensitive to the financial interests of masters," and "increased the compensation that employers could claim when a servant gave birth outside of marriage." (p. 84). For an in-depth discussion of the dual exploitation of slaves see Morgan, *Laboring Women*. See also Deborah Gray White, *Ar'n't I A Woman?: Female Slaves in the Plantation South* (New York: W. W. Norton, 1985); Jacqueline Jones, *Labor of Love*,

The Virginia Assembly put laws in place restricting servant marriage during the early seventeenth century. These early laws banned the secret marriage of servants and punished those free men who secretly married servant women. In 1643 officials outlawed secret marriages due to the "detriment" it caused not only "against the law of God," but also "to the service of manye masters of families in the colony." Any male servant who married a women servant or a widow without the consent of his master would first serve out his time and then serve an additional year. Women servants who married without consent also served out their term but then "double the tyme of service." Therefore, if a male servant's contract bound him to his master for four years and he secretly married, he owed his master one more year, for a total of five years of service. If a female servant engaged in the *same* action and had also been bound to work for four years, she would have to serve an additional four years, for a total of eight. A free man who secretly married a servant paid the master or mistress double the value of the service in addition to five hundred pounds of tobacco to the parish in which the so-called crime took place. By 1658 servant women's terms were only extended by one year and free men were not made to give satisfaction to the parish in which the marriage took place. Only a few years later, another law prohibiting secret marriages was implemented. This law offered a different explanation than the earlier laws as to how detrimental secret marriages were, stating that secret marriages led not only to the neglect of work by servants but also to the stealing

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*Labor of Sorrow: Black Women, Work, and the Family from Slavery to the Present* (New York: Basic Books, 1985); David Barry Gaspar and Darlene Clark Hine, eds., *More than Chattel: Black Women and Slavery in the Americas* (Bloomington: Indiana University Press, 1996).

of provisions from masters. Male and female servants were still forced to work an additional year if found to have been secretly married, and free men marrying women servants were to pay the master or mistress 1,500 pounds of tobacco or perform a year's service. Regardless of the justification for the laws against secret marriage, whether it was deemed detrimental to the laws of God or the productivity of servants, Virginia officials believed that servants marrying without the permission of their masters upset the balance of power and put masters at risk of losing valuable work from their temporarily bound laborers. And early in the century they believed that female servants should be punished for this act more severely than servant men. These laws continued to be written and instituted into the eighteenth century.[6]

By 1705, the year in which the first comprehensive law regarding servants and slaves was enacted, servant marriage was still prohibited unless agreed to by the master. The only change in the law between 1662 and 1705 was the fine free men paid if charged with marrying a servant woman without consent. Instead of 1,500 pounds of tobacco, they were made to pay 1,000 pounds or, as before, serve the servant woman's master or mistress for one year. By mid-century both servants and free men were given the option of either serving one year or paying five pounds current money to the master from whom they failed to get permission. Five pounds Virginia current money in 1748 equaled just under £4 sterling. It is unlikely, though, that a servant—or even a free man—would have had enough money to pay a fine rather than serve an additional twelve months. The law books then fell silent on servant marriage until very late in the century at which time the fine for marrying was changed to twenty dollars, with all other punishments remaining

[6] "Act XX (1643)," *Hening's Statutes at Large*, I, 252–53 (first, second, and third quotation on p. 252, fourth and fifth quotation p. 253); "Concerning Secret Marriages (1658)," Act XIV, *Hening's Statutes at Large*, I, 438; "Against Secrett Marriage (1662)," Act XCIX, *Hening's Statutes at Large*, II, 114.

the same. A dollar in eighteenth-century Virginia was another name for the Spanish peso, which was in high circulation in the Atlantic world during this time. It was a silver coin valued at approximately one quarter of a pound, or four shillings and six pence. These laws against servant marriages, whether secret or not, were put in place to protect masters and mistresses against losing the contracted labor of their servants. Every consequence resulting from the marriage of servants without the consent of their masters during the seventeenth and eighteenth centuries benefited their masters, either through additional service or monetary compensation. Had servants been allowed to marry, the servant women who appeared before the court for having bastard children would have not been punished for their actions, but this might have been exactly why the law prohibited marriage; if they allowed it, masters would not have gained extra service from some of their female servants who engaged in sexual relationships. Although it is likely that not all servant women engaged in these relationships consensually, masters would have still benefited from those single who became pregnant either by fellow servants, an enslaved man, or a free man. Servants and those free men attempting to marry servants were not the only persons who could be punished for these illicit unions; the ministers who performed the marriage were also prosecuted.[7]

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[7] "An Act Concerning Marriages (1705)," Chapter XLVIII, Section VI, *Hening's Statutes at Large*, III, 444; "An Act Concerning Marriages (1748)," Chapter XXXII, Section IV, *Hening's Statutes at Large*, VI, 83–84; John J. McCusker, *Money and Exchange in Europe and America, 1600–1775: A Handbook* (Chapel Hill: University of North Carolina Press, 1978), 7–8, 211; "An Act to Regulate the Solemnization of Marriages, Prohibiting Such as are Incestuous or Otherwise Unlawful; To Prevent Forcible and Stolen Marriages; and For Punishment of the Crime of Bigamy (1792)," Chapter 42, Samuel Shepherd, *The Statutes at Large of Virginia, from October Session 1792, to December Session 1806, Inclusive, in Three Volumes, (New Series,) Being a Continuation of Hening* (3 vols.; Richmond: Printed by Samuel Shepherd,

Between 1646 and 1792 those ministers who married servants without a license or marriage ban were also punished under the law. Throughout this period ministers were fined anywhere between one thousand and ten thousand pounds of tobacco for performing secret marriages without proper consent. By the late eighteenth century, the fine was two hundred fifty dollars. These laws set down by colonial officials were clearly put in place to protect the investments of masters. Anyone ignoring these laws suffered the consequences, which also directly benefited either the masters whose servants secretly married or the parish or county in which the marriage was performed.[8]

Because masters had to grant their servants permission to marry, most servants—both male and female—remained unmarried during their terms of service. Due to the lack of approved marriages in the historical record, it appears as though masters believed, as stated by law that, once married, servants would be unwilling to work, or, possibly, might collude with their husband or wife to run away or steal from them. Allowing servants to marry would have also eliminated the extra time masters gained when their female servants became pregnant and had bastard children. In addition, if the servants wanting to marry lived in different households, this might have been problematic, forcing one master to give up the time and labor of his servant, or allowing the servants to marry but requiring them to live separately until their terms of service expired. Having to get permission to marry reinforced servants' place in society as a people between. They were not free to marry at their own discretion, but if allowed to marry by their master or

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1835), I, 134; "Currency: What is a pistole?" Geography of Slavery, http://www2.vcdh.virginia.edu/gos/currency.html.

[8] "Act XIV (1646)," *Hening's Statutes at Large*, I, 332; "Against Secret Marriage (1662)," Act XCIX, *Hening's Statutes at Large*, II, 114; "An Act Concerning Marriages (1705)," Chapter XLVIII, Section VI, *Hening's Statutes at Large*, III, 444; "An Act Concerning Marriages (1748)," Chapter XXXII, Section IV, *Hening's Statutes at Large*, VI, 83–84; "An Act to Regulate the Solemnization of Marriages, Prohibiting Such as are Incestuous or Otherwise Unlawful; To Prevent Forcible and Stolen Marriages; and For Punishment of the Crime of Bigamy (1792)," Chapter 42, Shepherd, *Continuation of Hening*, I, 134.

mistress, servant marriages were recognized by law, whereas those of the enslaved were not. The likelihood of being allowed to marry, however, was limited.

During the eighteenth century, only one case came before a county court a female servant was granted permission to marry. In 1766 Ann O'Bryan agreed to serve her master, James Crow of Augusta County, two years for permission to marry Trade Flinn. While it appears as though both O'Bryan and Crow benefited from this agreement, O'Bryan would have been better off having secretly married Flinn and taking the additional year of service. Instead, because she negotiated with her master and gained his consent, she was made to serve Crow two extra years. Flinn might have hoped that during those two years O'Bryan might become pregnant, which would have meant an additional extension of her indenture and possibly the binding of her child, although, by law, the child would not have been a bastard, since O'Bryan was married. This one case recorded in the late eighteenth century suggests that most servants did not seek permission to marry.[9]

The absence of cases in which masters took their servants—or parish ministers—to court for having been involved in secret marriages also indicates that those did not occur on a regular basis. A probable explanation for a lack of servant marriage-related cases might be that they just were not recorded in the court; another equally plausible scenario might be that masters disallowed these marriages and justified it to their servants in such a way that they were willing to endure their temporary bondage before getting married. This arrangement

[9] Ann O'Bryan, Augusta County, 1766: Augusta County Order Book, 10, reel 65 (microfilm), Library of Virginia, Richmond, Virginia, 417.

certainly benefited masters who could then capitalize on the pregnancies of their single servant women and gain additional time for their having children out of wedlock. In addition, they, the churchwardens, or another county resident could benefit from the service of the bastard child. Virginia law, however, appeared to want to curb the incidence of servant sexual relations and illegitimate children, despite the benefits bestowed on masters when their female servants engaged in these acts, and servant women were more likely to get caught and punished than men. Servant men or free men were often able to avoid persecution and the paying of fines by simply staying silent. Female servants did not have this option. Their "sin" became evident within a few months, and masters jumped at the chance to gain additional service. Servant women like Frances Pressee who stood before the York County court in 1716 and refused to give the name of her child's father also offered some protection for these men. The record suggests, however, that Pressee was to be taken into custody by the court until she identified the father of her child. It is unknown if she ever gave the name, and it is unclear why she chose to withhold it. Although one possibility is that her master was the father of her child and therefore she was made to keep silent possibly through threats of violence. Some women were, however, willing to identify their child's father by name.[10]

Virginia laws against fornication dated back to the middle of the seventeenth century, but these laws that included punishment for both the men and women who committed these acts could only be carried out when there was no question as to who was involved in the so-called sin, which was rarely the case. By 1662 a separate act addressing "the [f]ilthy sin of [f]ornication" was created and stated that the master of any

[10] Frances Pressee, York County, 1716: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 493.

servant found guilty of fornication had to pay a fine of five hundred pounds of tobacco to the parish, and the servant was bound for an additional six months. If the master refused to pay the fine, the servant was whipped. When a bastard child was begotten from the act, the woman servant's indenture was extended by two years, or, instead, she could pay her master two thousand pounds of tobacco. The male servant was to pay the parish for the care of the child. This law punished both male and female servants for fornication; although, as previously stated, it was more difficult to accuse men of such an act, whereas servant women who became pregnant would not be able to hide their guilt. In 1696 the act was amended slightly: any servant whose master refused to pay the fine was ordered to receive twenty-five lashes, and women having bastard children were to serve one additional year or pay their masters one thousand pounds of tobacco. With the implementation of the first comprehensive law regarding servants and slaves in 1705, fornication became part of this larger law, along with bastardy. Rarely were servant women accused of one without the other, since a servant could not become pregnant without first committing "the [f]ilthy sin of [f]ornication." The early eighteenth-century iteration of this law suggests that it became an act more focused on the actions of female servants, and that according to law it was the fault of the woman for becoming pregnant, despite the fact that many of these women were most likely forced into these sexual relationships by men hoping to assert their power, whether they were servant, slave, or free.[11]

[11] "Against [F]ornication (1662)," Act C, *Hening's Statutes at Large*, II, 114–15 (quotation on p. 114); "An Act for Punishment of [F]ornication and Seaverall Other Sins and Offences (1696)," Act I, *Hening's Statutes at Large*, III, 139–40.

Of all the women brought before the court for fornication, bastardy, or both, only Elizabeth Thomson and Ann Green—both servants in York County—were accused of fornication and nothing more in 1706 and sometime between 1712 and 1714, respectively. Elizabeth Thomson was summoned to the court by John Wyth, a churchwarden, but because Wyth did not provide any further information or evidence, his claim was dismissed and Thomson was returned to her master. Thomson's act, if guilty, must not have resulted in a pregnancy and therefore was difficult to prove. Wyth might have believed Thomson was pregnant and had hoped that that would be evidence enough to confirm his accusation. Ann Green appeared before the court on the grounds of fornication only a few years later and her mistress, Elizabeth Brookes, paid the fine of five hundred pounds of tobacco to the churchwardens of Yorkhampton parish. No information was given regarding the extension of Green's contract by six months, but it is likely that she was made to serve that additional time to repay her mistress for the five hundred pounds of tobacco she was made to give to the churchwardens, especially since the law found the act of fornication by servant women so egregious.[12]

For women, servant or free, pregnancy most often gave away their transgression, but if the father of the child refused to come forward, not much could be done. By the mid-seventeenth century, court officials and magistrates were hesitant to punish innocent men and came to believe that men had the right to defend themselves against accusations of fornication. Women, though, whether servant or free, did not have the right to defend themselves in this male-dominated, power-driven society. In Accomack County in

[12] Elizabeth Thomson, York County, 1706: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 397. Ann Green, York County, 1712–1714: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 217.

particular a male defendant could not be prosecuted unless he himself confessed or another witness, other than his sexual partner, verified the woman's story. By the eighteenth century, women were relatively powerless in identifying the man involved in their illicit union and hence bore most of the responsibility for the act.[13]

Servant and free men, if identified as the father of a servant woman's child, were required to pay the churchwardens for the care of the child—free men immediately or upon complaint of the churchwardens, and servant men after the completion of their term or upon complaint—but did not carry with them the social stigma associated with bastard-bearing, whereas women did. The courts did more to protect and preserve the morality of free women, though, than it did servant women. In 1769 a law was established that addressed how cases involving free women having bastard children should be dealt with. Any free man accused of being the father of a child born of a single free woman was to be taken into custody and brought before a county justice. The justice, then, committed the man to the county gaol until the next court, or the man paid ten pounds and promised to appear. Once the man's paternity was verified, he was to pay the parish—in money or tobacco—for the care of his child. If the father failed to pay the churchwardens at the agreed upon times, the parish could then enter a complaint against him, and if he still did not pay, the father was put in jail until he took "the oath of an insolvent debtor" or "until the churchwardens . . . consent[ed] to his discharge." Men, whether servant or free, having children with servant women were never threatened with jail time, and while they were made to pay for the care

[13] Pagan, *Anne Orthwood's Bastard*, 123–24, 127.

of the child, if identified as the father, the legal recourse for having impregnated a servant woman was not as harsh. And despite this law appearing late in the century, the inequalities present throughout the colony in regards to free and unfree women were undoubtedly clear.[14]

Servant women were clearly at a disadvantage in cases of fornication and bastardy and remained virtually powerless against both the courts and the father of their children due not only their bonded condition but because they were women. This powerlessness, however, did not sway several servant women—most of whom lived in Accomack County—from pleading their cases before the courts. Mary Layer identified Darby Toole as the father of her bastard child Jacob in 1700, but no information is given regarding the status of Toole as either a free person or a servant. Toole was taken into custody, and at the next court he acknowledged Arthur Donis as the master of his bastard son. By taking Jacob as a servant, Donis—who was also the master of Mary Layer—not only saved the churchwardens from having to care for the child but also gained another laborer. In the same year, Ester Rose and an unnamed servant woman also named the fathers of their children. Rose identified Abel Johnson, a mulatto, and he was ordered into custody to confirm or deny the claim. The other servant woman, who belonged to Hampton Lindsey, named Peter, one of Lindsey's slaves, as the father of her mulatto child. The court took no legal action against Peter. Since no information is given regarding who bound out the child, Lindsey might have gained another servant through this relationship between his servant and slave, which suggests that Hampton Lindsey—and most likely other

[14] "Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XVIII, *Hening's Statutes at Large*, III, 452–53; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VIII, Section XIII, *Hening's Statutes at Large*, VI, 360–61; "An Act for the Relief of Parishes from Such Charges as May Arise from Bastard Children Born within the Same (1769)," Chapter XXVIII, Section I, *Hening's Statutes at Large*, VIII, 374–75 (quotations on p. 375).

masters—did not necessarily discourage his servants and slaves from forming relationships. For Lindsey, his bound laborers were just that, bound labor, and color did not necessarily separate one from the other. Because Rose and the servant woman gave birth to mulatto children, by law they were to serve out longer terms. In addition to the year they would have owed their masters, they then were bound out by the parish churchwardens for five more years. Their children, too, would be bound to serve until they were thirty-one years old. These additional punishments to servant women and their children make the lack of punishment for Peter and Abel Johnson even worse, especially since it is clear that Peter was a slave, but not even his condition or race could trump that fact that the servant woman was both bound and female. The significance of at least some of these women being sexually involved with other servants or slaves will be discussed later. Consent was not the only reason these pregnancies occurred. Some servant women were most likely exploited by either their fellow bonded laborers or their masters—or both—during their terms of service.[15]

Three years after Mary Layer, Ester Rose, and a third servant woman identified the father of their bastard children, Mary Low and Mary Clouds told the court that fellow male servants were the fathers of their children. Low named John Crosbey, another servant contracted to Major Richard Bally, as the father of her child. Because Crosbey was deceased, no further action concerning him was

[15] Mary Layer, Accomack County, 1700: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 82a, 83, 97a. Brian Brumingham is spelled in various ways throughout the colonial record, including Bryan Brumengen and Brian Bruminham. Ester Rose and unnamed servant woman, Accomack County, 1700: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 97, 97a. See also Margaret Farrance, York County, 1720: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 589.

taken. Low was ordered to find someone to pay her fine or face corporal punishment. Brian Brumingham, a fellow servant of Mary Clouds owned by her master Captain George Nicholas Hack, was the father of her child. Brumingham, who appeared to have time left to serve on his contract, was not summoned to court or made to pay the parish for the care of Clouds's child. Clouds, though, was found to be in contempt of court—for a reason not made clear in the record—and was taken into custody. Her son, William Clouds, was bound out to Peter Hack, a relative of Captain Hack, and contracted to serve until he was twenty-one, which was the same age that orphan apprentices were bound until under Virginia law. He was most likely an infant at the time of his binding, as most women accused of fornication and bastard-bearing were brought before the court soon after giving birth. William and other bastard children bound in similar ways were not necessarily useful to their masters until they were older. Until that time it was the responsibility of the master, or in this case Mary Clouds herself, to care for the boy; and then once he was able to perform basic chores within the household or in the fields, he was put to work doing just that. In neither of these cases were the servant men identified as the fathers truly punished for their actions, while both Low and Clouds were. It appears as though in cases of fornication and bastardy gender trumped status if male and female servants appeared before the court, and the women were held accountable for their actions while the male servants were not. This is not to suggest that there was a clear sense of racial solidarity between servant and free men in these cases, especially since Peter, the enslaved man identified as the father of Hampton Lindsey's servant woman, was also not punished for his actions.[16]

[16] Mary Low, Accomack County, 1703: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 144; Mary Clouds, Accomack County, 1703, 1704: Accomack

By December 1704 a pregnant Mary Clouds was back in court being questioned regarding the paternity of another child. She, again, named Brumingham as the father. He was ordered into custody but could not be found. The churchwardens subsequently called on the court to apprehend Brumingham for "having got several bastard children on ye body of Mary Clouds" and bring him before the court. The churchwardens' request was granted, but Brumingham never appeared before the Accomack County court. Mary Clouds, however, appeared in late 1705, after the birth of her child, and Peter Hack paid her fine and also five hundred pounds of tobacco to the parish for the care of the child, who he most likely also took as a servant. This second child was probably also bound until twenty-one like Clouds's first son, William. Nicholas Hack also had another servant, Hannah, presented for bastard-bearing in 1710. When she refused to speak, she was ordered into custody until the next court. Because Hack ended up paying for Clouds's second child, that means that Brumingham never did. It is possible that Brumingham also fathered Hannah's child, but because of her refusal to speak and because Hack did not appear to force the issue, he remained unnamed. Hannah's refusal to identify the father might also suggest that Hack, her master, was the father. What is clear is that the servants of Captain Hack were not

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County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 10, 11, 23a, 38a, 39, 50, 52, 52a; "An Act for Suppressing of Vagabonds and Disposeing of Poore Children to Trades (1672)," Act VII, *Hening's Statutes at Large*, II, 298. See also "An Act for the Distribution of Intestates Estates Declaring Widows Rights to Their Deceased Husbands Estates; and For Securing Orphans Estates (1705)," Chapter XXXIII, Section XIV, *Hening's Statutes at Large*, III, 375.

only working together but also engaging in "sins" of fornication, whether forced or consensual.[17]

The wording used by the churchwardens regarding the relationship between between Clouds and Brumingham is interesting, asserting not that Brumingham engaged in sexual encounters with Mary Clouds but instead "*on* ye body" of Clouds, which might suggest that Clouds did not have a choice other than to let Brumingham perform these acts upon her body. If this was the case, though, it stands to reason that the courts would have done more to gain custody of Brumingham so he could answer the claims against him. Unless, as has been suggested by the evidence, the courts tended to blame the female servants for fornication or for having become pregnant and rarely held the men involved accountable. But, if Brumingham had raped Clouds, she was most certainly in danger while working for Captain Hack: exploited by her master for her contribution to the work of the household and sexually exploited by her fellow servant, whose advances she was unable to fend off. Because she was unable to avoid Brumingham and bore two children, her indenture was undoubtedly extended. Another plausible argument, not contingent on the wording of the churchwardens' claim, suggests a less violent and exploitive experience for Clouds, one in which she and Brumingham developed and maintained a consensual relationship while working for Hack, but one that Hack would not recognize or allow them to make legal through marriage. By denying Clouds and Brumingham marriage, Hack benefited from Clouds's two pregnancies by extending her indenture, even if Brumingham, whose indenture also should have been extended, was

[17] Mary Clouds, Accomack County, 1703, 1704: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 10, 11, 23a, 38a, 39, 50, 52, 52a (quotation on p. 39); Hannah, Accomack County, 1710: Accomack County Orders, 1710–1714, reel 80 (microfilm), Library of Virginia, Richmond, Virginia, 6a.

able to avoid punishment. While plausible, the actions of Brumingham after being identified as the father might make this scenario less likely.

Even when identified as the fathers of bastard children before the court, Toole and Brian Brumingham (and John Crosbey, who was deceased) avoided full punishment for fornication and bastard-bearing. Toole was made to pay, or at the very least find a way to pay, the churchwardens for the care of his son, and Brumingham avoided even this by making himself scarce and probably leaving the county, leaving Peter Hack to pay the churchwardens and bind Brumingham's children to service. And in both cases, even though positively identified, the children born of these relationships were given the last names of their mothers—Jacob Layer and William Clouds—suggesting that neither father bore any responsibility for the children either before or after their birth. And because Jacob and William were born to servant women, they were also bound out as servants most likely until they were twenty-one. The pregnancies of these servant women, then, benefited their masters, who probably extended their terms of service to gain an additional year of work from these women, and since Mary Clouds became pregnant twice, her master might have hoped that during the extension of her term she might once again become pregnant.

One servant, Mary Case, for reasons unknown, refused to name the father of her child but was ordered to be whipped for fornication and bastard-bearing. Her adamant refusal to name the father might be indicative of several scenarios. First, she might have wanted to protect a fellow servant, slave, or free man. Second, she may have not known who the father was because she had had several

partners. Or, third, and possibly the most likely, she might have been coerced into silence by her master, the potential father. Whether named or not, the man identified as the father of a child born of a servant woman rarely, if ever, received the same punishments as the woman, who most often faced additional service, the paying of fines, and whippings. These punishments reinforce the productive and reproductive exploitation many servant women experienced while bound in eighteenth-century Virginia, as they not only attempted to endure their unfreedom but also protect themselves from the men with whom—or for whom—they worked.[18]

Throughout the eighteenth century the laws regarding bastardy and bastard-bearing were twofold. Not only were the terms of punishment for the woman laid out, but so were how the county and parish were going to care for the child. The female experience will be outlined in detail before moving on to how various counties cared for or bound out bastard children. When a woman servant gave birth during her term, she was made to serve her master or mistress "one whole year" after the end of her indenture "in recompense of the loss and trouble occasioned by [her] master or mistress" while she was pregnant. Or, if she had access to the resources, she could pay her master or mistress one thousand pounds of tobacco. It was unlikely that a woman servant had enough tobacco to pay such a fine; therefore, most were forced to remain in bondage for an additional year. By mid-century, servant women had to serve their masters or mistresses an additional year *and* pay them one thousand pounds of tobacco "for every offence." Because of the difficulty of obtaining that much tobacco, it is likely that women were forced to serve their masters even longer than a year for failing to pay the tobacco fine.

[18] Mary Case, Accomack County, 1703: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 144.

These punishments were enacted by the courts only if the man involved was a free man or a servant. The outcome was different when the master was the father.[19]

It would make sense that if the master of a servant woman was responsible for her pregnancy, then the woman would be exempt not only from continuing to serve her master but also from further punishment. In most cases, the union was probably forced, the servant woman being powerless against her master's advances. But the courts did not see it this way. Any master responsible for the "trouble" of his own household had no "claim of service against" his servant or the child, but the servant was made to finish her term and was then made to serve the parish for one year or pay them one thousand pounds of tobacco. The tobacco or the money received for the sale of the woman was put to use by the parish. In those cases involving Mary Case (Accomack County, 1703) and Francis Pressee (York County, 1716) in which they refused to name the father's of their children, it would make sense that their masters would not want to be identified since that would mean a loss of their bound laborers, and loss of additional time for their servant having become pregnant. But, even when the masters *were* identified, they certainly were not punished.[20]

In cases such as these, like that involving Joice Cooper and her master Daniel Gore, Gore did not lose anything for sexually exploiting his servant. He was initially taken into custody by the Accomack County court in April 1702, but

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[19] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XVIII, *Hening's Statutes at Large*, III, 452–53 (first and second quotations on p. 452); "An Act for the Better Government of Servants and Slaves (1753)," Chapter VIII, Section XIII, *Hening's Statutes at Large*, VI, 360 (third quotation).
[20] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XVIII, *Hening's Statutes at Large*, III, 452–53 (first quotation on p. 452, second quotation on p. 453); "An Act for the Better Government of Servants and Slaves (1753)," Chapter VIII, Section XIII, *Hening's Statutes at Large*, VI, 361.

only until he provided payment to the parish for the care of the child. Cooper, however, unable to pay the tobacco she was fined for having a bastard child, received twenty lashes. While Gore was treated as the law directed and he did not gain the additional year of service for the time lost during Cooper's pregnancy, this treatment suggests the court's (and the law's) preference to decide in favor of the masters and to place most of the blame of the sexual encounter on the female servant who was still required to serve an additional year, even if it was not with her master. And while there is only evidence of one master being named the father of his servant's child, at least before the court, it is likely that most masters who did exploit their female servants gained that additional year of service and were not punished for having exploited their servant women. Some might have forced their servant women to refuse to name them as the father, while others offered to pay the fines usually paid by the child's father. An illustrative case is that involving Sarah Woodfield and Justinian Love in 1730. Although Love was not named the father of Woodfield's child, Love told the court he was willing to pay the tobacco fine or the fifty shillings to the churchwardens for the care of the child. In this case, the tobacco fine was five hundred pounds, whereas statutory law required a payment of one thousand pounds of tobacco. Whether Love's willingness to pay the fine was an admission of guilt or not, this was clearly a case where customary law, even in the paying of the fine to the churchwardens, trumped statutory law. Therefore, it is quite possible that Love was the father, and because the court was willing to reduce the fine owed to the parish, they were also willing to overlook his transgression and allow him to keep Woodfield for an additional year after the expiration of her term. Justinian Love, as Woodfield's master, took advantage of both her productive and reproductive labor and

was actually rewarded with additional service rather than any punishment before the court.[21]

Through power and manipulation, masters were able to prove their authority and control over the productive and reproductive labor of their servants and gain additional service in return. This also held true in cases in which female servants were found guilty of both fornication and bastardy. While it makes sense that a pregnant servant woman had already broken laws regarding fornication, not all women were punished for both crimes. Those that were—like Hester Hill—often faced the threat of corporal punishment. As stated in law, Hester Hill received an additional year of service for having had a bastard child. In addition to this punishment, however, Hill was also ordered to pay the churchwardens five hundred pounds of tobacco for the "Crime of fornication." If Hill was unable to pay the fine by the next court, which was likely unless her master offered to pay the fine for her, no doubt for something in return, she would receive twenty-five lashes. Several Accomack County servants, discussed earlier for naming the fathers of their bastard children to no real consequence for the men, also faced corporal punishment. Unlike Hill who only faced the threat of a whipping, Mary Layer, Ester Rose, another unnamed servant woman, Joice Cooper, Mary Case, and Mary Low were ordered to receive between twenty and twenty-five lashes. Layer, it appears, was not given the option of paying the tobacco fine, while Rose was unable to pay the fine herself or find anyone to pay it for her. The unnamed woman, after the court ordered her whipped, attempted to escape. The sheriff was

[21] Joice Cooper, Accomack County, 1702: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 129a, 130a; Sarah Woodfield, York County, 1730: York County, Deeds, Orders, Wills, 1729–1732, 17, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 12, 29.

told to take her into custody so that she could receive her whipping. These Accomack County servants were accused of fornication and bastardy and were called upon to name the fathers of their children. While the only consequences ordered by the court were whippings, they probably also faced an additional year of service; but the extension of their indentures was not recorded. It might be that since they were willing to name the men responsible, their indentures were not extended, but most masters were probably not willing to give up the productive time they lost while their servants were pregnant and therefore demanded their servants be made to serve an additional year, despite it not being recorded in the historical record. The churchwardens also benefited in these cases as they took the children under their care, but only until they could find someone willing to bind them out as servants. Most servant women were not accused of both fornication and bastardy and were therefore not whipped for their transgressions; instead, they appeared before the court for bastard-bearing alone and were forced to continue in servitude after the expiration of their indentures, which was much more beneficial to their masters than corporal punishment.[22]

The majority of servant women appearing before the York County courts for having bastard children were ordered to serve their masters for an additional year, as the law suggested. Two were given the option of serving a year or paying their masters one thousand pounds of tobacco but probably served the extra time, having no access to such a large amount of tobacco. Others were summoned to the next court to answer the claims

[22] Hester Hill, York County, 1728: York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 513 (quotation); Mary Layer, Accomack County, 1700: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 82a, 83. Ester Rose, Accomack County, 1700: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 97; Unnamed servant woman: Accomack County, Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 97a.

against them. And many of the Accomack County servant women failed to appear and were ordered into custody. No explanation was given as to why so many servants in Accomack County refused to appear before the court for having a bastard child, but if their masters were anything like Henry Smith, discussed earlier, their refusal to appear might have stemmed from their fear of another year of abuse, or even rape, at the hands of their masters. Because most of those women never appear in the historical record again, some might have run away, while others were probably made to serve their extra time by their masters who took it upon themselves to enact the law instead of appearing before the courts and having it recorded.[23]

[23] See Jane Midleton, York County, 1704: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 194; Elizabeth Layfield, York County, 1712–1714: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 138; Frances Lee, York County, 1714: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 348; Elizabeth Spencer, York County, 1716: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 60; Katherine Eales, York County, 1717: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 110; Ann Guilliams, York County, 1720: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 678–79; Mary Ansell, York County, 1721: York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 9; Margaret Flora, York County, 1721: York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 38; Katherine Cary, York County, 1721: York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 75; Martha Ambler, York County, 1724: York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 247; Jane Tomson, York County, 1743: York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 210 for those women appearing before the York County court and receiving an additional year of service. See Elizabeth Gray, Augusta County, 1765: Augusta County Order Book, 1765–1767, 10, reel 65 (microfilm), Library of Virginia, Richmond, Virginia, 145, 146; Martha Hassall, Augusta County, 1765: : Augusta County Order Book, 1765–1767, 10, reel 65 (microfilm), Library of Virginia, Richmond, Virginia, 145, 146; Mary Hall, Augusta County, 1776: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 129 for cases in Augusta County, Virginia. See Margaret, York County, 1719: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 523; Margaret Floro, York County, 1720: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 536 for the two women given the option of paying a tobacco fine or serving extra time. See Katherine, York County, 1716: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 59; Margaret Farrance, York County, 1720: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 589; Margrett, Accomack County, 1705: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 41for evidence

Most cases addressing bastard-bearing were straightforward. Either the women appeared to answer the claims against them or they did not. Some cases, indeed, were more complicated than this, but even those that were not were of great benefit to the masters of these women. The justification of the law was that masters lost valuable time from their servants during their pregnancies, and they went to great trouble in caring and providing for their pregnant servant women. Based on what we know about slave women and the large variance in laws regarding how fathers of free, single white women were dealt with as opposed to men accused of fathering children with servant women, it was probably only in unique circumstances that servant women were kept from their work while with child. In all likelihood, their work load was reduced, but it is not plausible that they were kept from work for the entirety of their pregnancy, and most likely returned to returned to work within a month or two of giving birth. The fact that masters gained an gained an additional twelve months of work from their female servants after the birth of birth of their child was a clear benefit to the master, and it appears that female servants were powerless to negotiate anything less than twelve months extra time when found to be pregnant. And, some servants became pregnant a second time, prolonging their

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of servant women being summoned to the next court to answer claims. Neither of these women appeared in the historical record a second time. See Elizebeth Dimond, Accomack County, 1705: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 51, 56, 56a; Elizebeth Jones, Accomack County, 1705: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 56, 63a; Mary Hithins, Accomack County, 1705: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 58; Ann Daniel, Accomack County, 1706: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 72; Sarah Savage, Accomack County, 1706: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 72; Dorithy Guilmore, Accomack County, 1708: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 122, 125a; Margret Ward, Accomack County, 1710: Accomack County Orders, 1710–1714, reel 80 (microfilm), Library of Virginia, Richmond, Virginia, 6a, 9; Hannah, Accomack County, 1710: Accomack County Orders, 1710–1714, reel 80 (microfilm), Library of Virginia, Richmond, Virginia, 6a, 9 for accounts of women being taken into custody after not appearing to answer the claims against them.

bondage and most likely their exploitation as both a servant and a woman by their more powerful white masters.[24]

In 1773 Mary Handlin, a servant in Augusta County, was ordered to serve James Langstys for four years not only for having two bastard children but also for his having purchased her from her former master, William Henderson. Handlin, it appears, had two more years on her original contract, and then was made to serve two additional years for having had two bastard children. It is unclear how or why Handlin was contracted out to Langstys, although it is most likely that Henderson and Langstys negotiated the sale without any input from Handlin. It might have been that Henderson could no longer afford to keep Handlin as his servant, but instead of ending her contract early, he wanted compensation for her remaining time; therefore, he sold her contract to Langstys, who then benefited from the two remaining years of her indenture in addition to the extra time she would serve for having two children. Another servant, Margaret Clark, negotiated directly with her master, for an arrangement she believed would be beneficial to both parties. Unfortunately, once pregnant two times in two years, Clark's time in bondage was extended even further.[25]

Margaret Clark, a servant to Alexander Spotswood, Lieutenant Governor of Virginia, voluntarily extended her indenture in order to learn "ye art of cookery for 3 months." It would make sense, then, that Clark only agreed to extend her

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[24] For a discussion of the treatment of slave women while pregnant, see White, *Ar'n't I A Woman?*, 70, 99–105; Jones, *Labor of Love, Labor of Sorrow*, 18–20; Cheryll Ann Cody, "Cycles of Work and of Childbearing: Seasonality of in Women's Lives on Low Country Plantations," in Gaspar and Hine, eds., *More than Chattel*, 61–78; "Hard Labor: Women, Childbirth, and Resistance in British Caribbean Slave Societies," in Gaspar and Hine, eds., *More than Chattel*, 193–217.

[25] Mary Handlin, Augusta County, 1773: Augusta County Order Book, 1773–1774, 15, reel 66 (microfilm), Library of Virginia, Richmond, Virginia, 225.

contract for those three months; instead, Spotswood contracted Clark for an additional year of service, which left her having to serve in the same capacity as she already had for at least additional nine months. It is also likely that she did not spend every day of those three months learning to cook; therefore, she continued on as a servant even while learning her trade. Clark made this agreement with Spotswood in 1716. Once she served an extra year, negotiated on her own volition, she would have been free. Unfortunately, Clark appeared in court in 1717, near the end of her service—which she voluntarily extended—for having a bastard child. She was given the option to serve twelve months or pay a tobacco fine of one thousand pounds, but having no tobacco to pay her master, she served Spotswood for another year. In 1719, Clark again was accused of having a bastard child and was made to extend her contract even further. Had Clark not become pregnant, the power she exercised in extending her contract and learning a skill would have worked to her benefit, but once pregnant, the advantages of her new agreement disappeared. Because she was not asked to identify the father of her children, it is unclear if the father or fathers were fellow servants, slaves, or Spotswood himself. Regardless, Spotswood gained three additional years of service and only had to give up some time over the course of three months for Clark to learn the basics of cooking. What began as a promising enterprise in which Clark asserted power over her own future quickly turned into an extended term of bondage, about which she most likely had little say. In the case of Margaret Clark, she was even exploited as she attempted to ensure a future for herself with the skills of a cook. And while Spotswood did not have to agree to someone within his household teaching her new skills, he, too, gained something from the agreement, and, because Clark appeared before the court for bastard-bearing on two occasions after

that, he gained even more, and Clark remained an unfree laborer for much longer than she intended. [26]

Margaret Clark and Mary Handlin were not the only servants to have more than one child during their term of service. Mary Clouds, discussed for having identified the father of her children as Brian Brumingham, and Mary Banks and Ester Rose also suffered two additional years of service for having more than one bastard child. Because of the punishment attached with having a child while bound and the inability of servants to marry without the permission of their masters—who would have lost the perks of additional service upon consent—the possibility that female servants willingly engaged in intercourse is small, although some most likely did. While it is certainly plausible to suggest that they wanted to or planned to marry the men with whom they had their children once they completed their terms of service, they were also fully aware of the repercussions involved with becoming pregnant while still under contract. Moreover, because the number of cases in which the fathers of their children were actually named was so limited, most of the men were not identified and therefore avoided punishment for their actions. Sometimes the only identification possible was whether the father was black or white.[27]

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[26] Margaret Clark, York County, 1716, 1717, 1719: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 22, 523 (first quotation on p. 22); York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85, Box Clark, M–Z 78.

[27] Mary Banks, York County, 1704: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 181, 188; Ester Rose, Accomack County, 1700, 1703: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 97; Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 11.

Included in the laws against bastard-bearing in colonial Virginia were laws regarding what would happen to women who gave birth to mulatto bastard children. For children. For servant women and free white Christian women, the laws were nearly the nearly the same. During the late seventeenth century, any woman, servant or free, who who gave birth to a mulatto child was to be bound out by the churchwardens for five five years, after having served her master the additional year of service all pregnant pregnant servant women owed their masters for the "trouble" of their household. If the woman was free, she was given the option of paying a £15 fine, but if unable to pay she was bound out by the parish and the money received by binding her out was divided in thirds between the parish, the government, and the informer. Servant women were not given the option to pay a fine and were made to serve out their contracts before serving the additional five years. With the enactment of the 1705 laws regarding servants and slaves, servant women were also given the option to pay the £15 Virginia current money fine or be sold for five years, but both free and servant women were still forced to be bound out by the churchwardens for five years. The same repercussions were reiterated in the comprehensive law of 1753. No other laws regarding women having mulatto children appeared after 1753, and without a clear repeal of these laws in later coda, it is likely that servant and free women continued to face the threat of five years of service for having a mulatto child. Free Christian white women, in cases of mulatto bastardy, were locally bound servants. They were women who lived as free women and probably never intended on entering servitude, but with the birth of a mulatto child—whether through a forced or consensual sexual relationship with a slave, free black, or mulatto slave or free person—

they were forced to give up five years of their life to the service of the parish, or whomever the parish could sell them to.[28]

As with most cases involving servants—excluding those in which servants filed their own petitions against their masters—female servants accused of fornication or bastard-bearing were dually exploited, and even more so in cases where a mulatto child was born. Churchwardens, too, benefited more from these cases. They received either £15 Virginia current money or money from the sale of the servant woman who entered into five more years of bondage. Masters gained an additional year of service, as they did when servant women bore white bastard children, and could then purchase their servant women from the churchwardens for another five years. Their servant women were made to finish out their terms of service, serve an additional twelve months, and then be handed over to the parish. Based on the unpredictability of the courts' use of statutory and customary law, it is possible that the fates of some servant women having mulatto bastard children did mean an additional six years of service; others might have received lesser punishments based on the thoughts and opinions of the court justices. Despite our inability to know for certain the exact or full fate of female servants having bastard children, what remains clear is that in all of these cases, female servants remained powerless and at a great disadvantage in controlling their own futures or gaining freedom. Moreover, when they had mulatto children, concepts of race came into greater focus and female servants' terms were extended not only

[28] "An Act for Suppressing Outlying Slaves (1691)," Act XVI, *Hening's Statutes at Large*, III, 87; "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XVII, *Hening's Statutes at Large*, III, 453; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section XIII, *Hening's Statutes at Large*, VI, 361.

because they engaged in the sin of fornication but also because they did so with a black or mulatto man, most likely enslaved (but not necessarily). Women were punished not only according to their condition but also according to who fathered their child(ren).

The colonial record indicates that some of the bastardy cases brought before the court involved servant women and the birth of a mulatto child, some examples having already been discussed: Ester Rose, who identified the father of her child as a mulatto man named Abel Johnson, and Hampton Lindsey's unnamed woman servant, who named one of Lindsey's slaves as the father of her mulatto child. These women were only punished for fornication and not bastard-bearing, at least before the court. It is likely that they were also bound out by the parish for another five years at the end of their terms, but the indenture was just not recorded in the historical record. Knowing the seriousness of this offense in eighteenth-century Virginia, that was probably the case. Both statutory and customary laws were often enacted based on the whim of the courts and cases involving the birth of mulatto children were no exception.[29]

[29] Ester Rose and unnamed servant woman, Accomack County, 1700: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 97, 97a. For other cases in which servant women gave birth to mulatto children, see Anne Wimball, York County, 1703: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 80; Margaret Bird, York County, 1703: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 123; Mary Banks, York County, 1702, 1704: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 67, 181, 188; Mary Hanson, York County, 1706: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 414; Elizabeth Chilmaid, York County, 1706–1708: York County Deeds, Orders, Wills, 1706–1710, 13, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 21; Rebeca Stephens, York County, 1706–1708: York County Deeds, Orders, Wills, 1706–1710, 13, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 21; Mary Case, Accomack County, 1701 and 1703: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 126a, 144 and Accomack County Orders, 1703–1710, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 3; Susan Harrison, Accomack County, 1703: Accomack County Orders, 1703–1710, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 13; Mary Newman, Accomack County, 1704: Accomack County Orders, 1703–1710, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 36, 37a; Dorithy Guilmore, Accomack County, 1708: Accomack County Orders, 1703–1710, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 122.

Two rather complicated cases involving the birth of mulatto children and the indecisiveness of the court demonstrate the various ways in which the court responded to charges of mulatto bastard-bearing. Rachel Wood, servant of Mongo Ingles, a York County resident, appeared in court a number of times regarding her mulatto bastard child. Her first appearance was sometime between July 1706 and May 1708, at which time Ingles testified that Wood had had a bastard child. Nowhere in his testimony did he identify the child as a mulatto. During this presentment, the court ordered that Wood appear at the next court. At the next court Ingles again presented his case, but this time he clearly stated that Woods's child was, indeed, mulatto. He also asked the court to act according to law—which, if he meant statutory law—would require that Wood serve out her time with Ingles before being given the opportunity to pay the churchwardens £15 Virginia current money or serve the churchwardens or their assigns for five years. Ingles was also clear in both of these cases to identify Wood as a white servant. Between 1708 and 1710 Ingles presented his case for a third time and referred to Wood as an English servant, but still he reaffirmed that she was white. He asked the court to act according to law, but the court decided that Wood's term had expired and that she owed Ingles no additional time. After hearing Wood's confession at the next court, the justices found that she was, in fact, still contracted to serve Ingles and ordered her back to his house to finish out her term and then serve an additional year for the time lost while she was pregnant. Because Wood's child was mulatto, she should have been bound out to the churchwardens once she completed her time with Ingles, but the court record does

not indicate that she was. It is likely, however, that because she would not have been handed over to the care of the churchwardens until her service to Ingles was complete, that it was not something that was recorded in the county court records. By specifically stating that Wood's child was mulatto, Ingles made clear to the court not only how much longer Wood had to serve (both him and the churchwardens), but also that his servant woman had been sexually involved with either a free or enslaved mulatto or black man.[30]

The transgressions of another servant woman, Jane Solman of Accomack County, were also well documented. Solman was first accused of bastard-bearing by her master, Francis Makemie, in 1701, at which time Makemie informed the court that the child was a mulatto. Solman was ordered to appear before the next court. When Makemie testified in early 1702 that Solman could not be found, the sheriff was told to find her and take her into custody until she gave security to appear before the next court. The justices claimed that Solman could "be found within [the sheriff's] bailiwick," which suggests that someone knew that Solman was still within the county, or at least the jurisdiction of the court. It is probable that Solman attempted to abscond rather than serve an additional six years for having had a mulatto child. In March 1703 Makemie told two churchwardens, Robert Hutchinson and Stephen Warrington, that Solman had given birth to a bastard child by his slave, Peter, who appears to have not been punished for his involvement. Once Solman's contract with Makemie expired, he was told to "take her into custody and dispose of her" based on the 1691 laws regarding bastard-bearing—which meant Solman would be made to serve the churchwardens five years without the option of paying the

[30] Rachel Wood, York County, 1706–1710: York County Deeds, Orders, Wills, 1706–1710, 13, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 115, 137, 216, 235, 263; Sarah Woodfield, York County, 1730: York County, Deeds, Orders, Wills, 1729–1732, 17, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 12, 29.

£15 fine. Solman, it appears, was re-purchased by Makemie. This first case of Solman's bastard-bearing appears to have been settled with this decision, but before long Makemie presented Solman again for having had another bastard child. This child, Solman claimed, was the child of Thomas Perry, of which no other information was given, other than that he was to be detained by the sheriff until he paid for the support of the child, demonstrated good behavior, and paid the court charges. Solman was ordered into custody to receive twenty-five lashes but did not appear. Because Perry was ordered to pay the fine himself and Solman was whipped, it appears as though both Perry and Solman were punished for fornication and not bastard-bearing, at least as written in the court record. This was not, unfortunately, Solman's last chance to be prosecuted for having a bastard child, but by having these two children, according to law, Solman already owed an additional seven years of service to either her master or the churchwardens.[31]

By October 1704 Solman still remained in the service of Makemie. He presented her, again, for having a mulatto bastard child, but the father was not identified by name. The entire fine owed for Solman's actions was 2,100 pounds of tobacco, two-thirds of which was to be paid to the informer, Naomie Makemie. In cases of fornication, the informer was only supposed to receive one-third of the

[31] Jane Solman (also transcribed as Salman, Solmand ), Accomack County, 1701, 1702, 1703: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 122a, 126a, 140a (first quotation on p. 126a, second quotation on p. 140a); Jane Solman (also transcribed as Salman, Solmand), Accomack County, 1703: Accomack County Orders, 1703–1709, 79 (microfilm), Library of Virginia, Richmond, Virginia, 2a, 7, 7a, 19a.

fine, but this case might have been different, either based on custom or because Naomie Makemie was related, in some way, to Solman's master.[32]

Within the span of three years, Jane Solman had had three bastard children, one children, one by a slave belonging to her master, another by Thomas Perry, presumably a presumably a free man, and the third by an unnamed enslaved man. For the first case, case, Solman should have been made to serve Makemie for an additional year and be be bound out by the churchwardens for five more. Makemie, of course, had the opportunity to buy her back from the churchwardens and keep her in his service. Solman and Perry, the father of her second, probably white child, were found guilty of fornication and not bastard-bearing; therefore, Perry paid a fine and Solman was whipped, but probably still owed Makemie an additional year of service for time lost during her pregnancy. Solman's third appearance before the court was again for having a mulatto bastard child, which could have added an additional six years to her bondage. Between 1701 and 1704 Jane Solman had had three bastard children, and because two of her children had slave fathers, Solman's bondage was supposed to be extended by thirteen years: one additional year for each child, plus ten years owed to the churchwardens for having had mulatto children. Regardless of Solman's consent in these sexual encounters, she had no control over the extension of her indenture, and the court and Makemie placed the blame for these encounters on her and doled out harsher punishments for her involvement with enslaved or free black men than they did for her involvement with Perry, a white man. In the case, and other cases like it, the interplay of status, race, and gender certainly played into the hands of the master class and left Jane Solman, an unfree

[32] Jane Solman (also transcribed as Salman and Solmand), Accomack County, 1704: Accomack County Orders, 1703–1709, 79 (microfilm), Library of Virginia, Richmond, Virginia, 35a.

white woman with two mulatto children, almost completely powerless against the exploitation of her labor. And as if an additional thirteen years and three children the care of the churchwardens was not enough, Solman returned to the Accomack County court in 1706.

The Accomack County court record indicated that Jane Solman was brought before the court again in 1706—upon information gathered by a man named Thomas Ward, most likely an informant—for having a bastard child by an enslaved man, possibly Peter, the father of her first child and potentially her second child, as well. Solman was ordered to be taken to the churchwardens after she completed the service left in her contract with Makemie. Those two years were most certainly the back end of the five she owed for the birth of her first child. But Robert Hutchinson, a churchwarden, claimed that Solman owed Makemie no more time; therefore, she was ordered into the hands of the churchwardens to be bound out for an additional five years. The sheriff, though, was unable to find her, and despite the justices' insistence that the order to hand her over to the churchwardens be kept in effect until she was found, Solman was either never found, or her case was handled outside of the court, or just never recorded. Based on her personal experience as a powerless servant woman, it is not unlikely that she ran away to avoid yet another potential six-year extension to her indenture.[33]

Despite the obvious inconsistencies between cases and the lack of specific or definitive information during any of Solman's court appearances, Solman's

[33] Jane Solman (also transcribed as Salman and Solmand), Accomack County, 1708: Accomack County Orders, 1703–1709, 79 (microfilm), Library of Virginia, Richmond, Virginia, 107a, 118.

experience both as a servant and before the courts was one in which she had little power or control. This woman had four bastard children during her term of indenture, which was, or at least should have been, extended with the birth of every child. There is little question that Solman was sold back to Makemie after her first child, which extended her service for five years but benefited the churchwardens, who were paid by Makemie, and gave Makemie several more years of service. Makemie was clearly unconcerned with the sexual encounters taking place on his property, most likely because he knew he could benefit from them. Solman was exploited by her master, a free man, and maybe one or more slaves, in addition to the churchwardens who received payment for every child she had. With this record, Solman never would have entered freedom on equal footing, even with other freed servants. If any female servant experienced a life in which she was consistently dominated by both free and enslaved men, and even women, it was Jane Solman. And as complicated and troublesome as it was to have four bastard children during the course of her servitude, had the court acted exactly as the law was written, her fate could have been much worse. The courts, then, did not always have to decide strictly based on statute, but could make decisions as they saw fit. The threat of statutory enactments might have been enough to deter servants from breaking the law. Or, in the case of women like Jane Solman and others who came before the court for having multiple children, the courts understood that they might not have always been complicit in those sexual unions and instead of extending Solman's term for nineteen years, they extended it for a shorter period of time. In cases involving most servants, even those having bastard children, the courts did not always act in accordance with the law, but the justices hearing cases involving white Christian women having mulatto children—or at

least those that appear in the historical record—never made their decisions based on custom.

White Christian women accused of having mulatto children—who then became Virginia born servants—were regularly bound to five years of service. Between 1710 and 1769, five free, white, Christian women—one in York County and the others in Accomack County—were taken before the court for having had mulatto bastard children. All of these women, the majority of whom were tried and punished between 1765 and 1769, were placed in the custody of the churchwardens who were then expected to "sell and dispose" of these women for a term of five years. The money received from these sales was used for the benefit of the parish. Elizabeth Conyers, who was sold to the churchwardens in York County between 1710 and 1711, was not given the option to pay a fine; the four women tried during the late eighteenth century in Accomack County were, but because they were unable to pay that fine, they were bound to labor for five years. One possible argument for the appearance of these women before the court for having mulatto children, especially those residing in Accomack County, was that they had and maintained relationships with free black men in the county. The Eastern Shore of Virginia did have a free black population during the seventeenth and eighteen centuries, so it is not out of the question that free white women in the county were involved with them. This is not to say that this same argument could not be used to explain some of the mulatto children born of servant women. As has been proven, some servant women did have sexual relationships with white free men, so it is not impossible that they also had sexual relationships with

free blacks. Despite this possibility, however, for both free and unfree women the cases documenting the experiences of female servants taken before the court for fornication and bastard-bearing during the eighteenth century illustrate the relative powerlessness they had before the courts and in the households of their masters. The more plausible explanation in the majority of these cases is that servant women—and even the free Christian women having mulatto children—were forced into the sexual encounters they had with either free men, servant men, enslaved men, or free blacks, much like slave women who were sexually exploited by their masters.[34]

In most cases in which white servant women had mulatto children, it is probable that an enslaved man was the father, whether he was identified by name or not. While this could suggest an equal relationship formed on the plantation on which both bonded laborers worked, another likely explanation might involve a struggle for power or dominance. Enslaved men, who watched slave women being raped and beaten, and who were beaten and mistreated themselves, may have found an opportunity to show dominance or exert sexual power through sexual relationships with unfree white women. Servant women, while white, were not mistresses or even future mistresses of the household, and they remained in their masters' service until the end of their indenture.

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[34] Elizabeth Conyers, York County, 1710–1711: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 41 (quotation); Jane Crouch, Accomack County, 1765: Accomack County Orders, 1765–1767, reel 83 (microfilm), Library of Virginia, Richmond, Virginia, 4 ; Violetta Hitchens, Accomack County, 1767: Accomack County Orders, 1765–1767, reel 83 (microfilm), Library of Virginia, Richmond, Virginia, 373; Lea Doe, Accomack County, 1768: Accomack County Orders, 1767–1768, reel 84 (microfilm), Library of Virginia, Richmond, Virginia, 388; Elizabeth Martin, Accomack County, 1769: Accomack County Orders, 1768–1769, reel 84 (microfilm), Library of Virginia, Richmond, Virginia, 257; For a discussion of the free black population of the Eastern Shore, see T. H. Breen and Stephen Innes, "*Myne Owne Ground": Race and Freedom on Virginia's Eastern Shore, 1640–1676* (25th Anniversary ed.; New York: Oxford University Press, 2004); Joseph Douglas Deal, *Race and Class in Colonial Virginia: Indians, Englishmen, and Africans on the Eastern Shore during the Seventeenth Century* (New York: Garland Publishing, Inc., 1993); Ira Berlin, *Many Thousands Gone: The First Two Centuries of Slavery in North America* (Boston: Harvard University Press, 1998), 124; Philip D. Morgan, *Slave Counterpoint: Black Culture in the Eighteenth-Century Chesapeake and Lowcountry* (Chapel Hill: University of North Carolina Press, 1998), 16.

Moreover, in cases like that of Jane Solman, masters, if financially able, could purchase their servant's five-year contracts from the churchwardens and gain even more time from them. And, even if Makemie was the only master recorded to have re-purchased a servant from the churchwardens, others most likely did the same. If they could afford it, it was to their advantage to keep a servant woman, already found guilty of bastard-bearing, in their service, and they probably hoped that the woman would again become pregnant, which meant that they could be exploited even more.

Servant women, their masters, and the churchwardens were not the only people involved in cases of bastard-bearing; there was also the child. The Virginia laws addressing bastardy also outlined what was to be done with the child once born. Children of white servants and white free men or servants were given over to the parish, and the father, as mentioned earlier, was required to pay the churchwardens for the care and upkeep of the child. While not required by or written into law, the churchwardens most likely bound these children out (after they reached a certain age) for any number of years, but probably until they were twenty-one, as was the case with other orphans, in order to gain compensation that was then put to use for the good of the parish. And in some cases, like that involving Mary Layer, Darby Toole, and Layer's master Arthur Donis, the woman servant's master purchased the child from the churchwardens.

The laws regarding mulatto bastard children were different. During the late seventeenth century, mulatto bastard children born of servant and free women were ordered to be bound out by the churchwardens until the age of thirty. By

1705, all mulatto bastards were ordered to serve until they were thirty-one years old, and in 1723 the law required all children born of mulatto servant women to serve until the age of thirty or thirty-one; and they were not to be sold by the parish but remained with their mother's master until he or she reached that age. None of these laws indicate at what age this mulatto children—or any child born of a servant woman—were bound out, but it is probable that these children remained with their mothers during the early years of their lives and then were bound once they could perform basic tasks either within the household or in the field. Masters and mistresses of mulatto servants gained substantially more service for every child that a female servant had, and the master or mistress did not owe anything to the churchwardens for the care of the child, since the child remained in his or her care and was bound for much longer than indentured, customary, or convict servants, and even apprentices. The 1753 comprehensive law regarding servants and slaves also kept mulatto bastard children bound until the age of thirty-one, but several years later, keeping mulatto children bound for so long was considered "an unreasonable severity," and the law was changed. Male children were then made to serve until twenty-one and female children until eighteen. Even after the change in the law, masters still benefited from a servant for much longer than did those signing contracts with indentured servants, customary servants, and apprentices. Masters and mistresses of convict women, after 1769, benefited from the birth of bastard children: males served their mother's master or mistress until they were twenty-one, and females until they were eighteen. Mulatto children born of servant mothers, then, were bound for terms of service much longer than their mothers—unless she herself was a mulatto—or their fellow servants, whether bound by indenture or custom. The only other bound laborers who received

terms similar in length were apprentices, but the advantage that apprentices had was that they were bound to learn a particular skill and were more likely to achieve success and possible upward social mobility at the end of their contracts. Mulatto bastard children, while living lives between freedom and unfreedom, like all other servants, lived more similarly to slaves, at least in relation to the terms of their contracts. In a society in which life expectancy was not always high, especially for those toiling in the fields and households of another, mulatto bastard children were made to serve for the first twenty-one or thirty-one years of their lives, if male, and the first eighteen or thirty-one years of their lives if female. And, if female, they most likely faced similar exploitation to that of their mothers, which might have then extended their terms of service for even longer.[35]

Between 1700 and 1775 various county courts documented the binding out of mulatto bastard children born of servant women. These children, powerless to change the status and condition into which they were born, were assigned to work for much longer than their mothers, unless their mothers were also mulatto, as was the case with Mary Banks. In late 1702 the daughter of Mary Banks, a

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[35] "An Act for Suppressing Outlying Slaves (1691)," Act XVI, *Hening's Statutes at Large*, III, 87; "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XVIII, *Hening's Statutes at Large*, III, 453; "An Act Directing the Trial of Slaves , Committing Capital Crimes; and For the More Effectual Punishing Conspiracies and Insurrections of Them; and For the Better Government of Negros, Mulattoes, and Indians, Bond or Free (1723)," Chapter IV, Section XXII, *Hening's Statutes at Large*, IV, 133; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section XIII, *Hening's Statutes at Large*, VI, 361; "An Act to Prevent the Practice of Selling Persons as Slaves That are Not So, and For Other Persons Therein Mentioned (1765)," Chapter XXIV, Section III, *Hening's Statutes at Large*, VIII, 134 (quotation); "An Act for the Relief of Parishes from Such Charges as May Arise from Bastard Children Born within the Same (1769)," Chapter XXVII, Section VI, *Hening's Statutes at Large*, 377. For information regarding life expectancy in colonial Virginia see Jack P. Greene, *Political Life in Eighteenth-Century Virginia* (Williamsburg, Va.: Colonial Williamsburg Foundation, 1986), 4; James M. Volo and Dorothy Denneen Volo, *Family Life in 17th- and 18th-Century America*. Family Life through History Series (Westport, Conn.: Greenwood Press, 2006), 39; Allan Kulikoff, *Tobacco and Slaves: The Development of Southern Cultures in the Chesapeake, 1680–1800* (Chapel Hill: University of North Carolina Press, 1986), 262.

mulatto servant of Martin Goodwin—a York County planter—was bound to serve Peter Goodwin until the age of twenty-one. Peter Goodwin was not only to keep Hanah Banks for nine years less than the law required but was also to have Hanah baptized, teach her the Lord's Prayer and the Ten Commandments, and, at the end of her indenture, provide her with Indian corn and clothes. Two years later Elizabeth Banks was bound to serve Martin Goodwin, the master of her mother. Elizabeth was bound according to law, and Martin promised to provide her the proper provisions while she was under contract. The indentures of Mary Banks's two daughters were very different. Hanah was guaranteed to be brought up in the Christian faith and treated much like an apprentice, while Elizabeth, it appears, was to be used more like any other servant. In addition, Hanah was bound until the age of twenty-one and Elizabeth until she was thirty. If there is to be any positive outcome in the binding out of one's children, Banks experienced it. One of her daughters was bound to her own master and the other to a relative, most likely a brother, which suggests that she was not permanently separated from her children, as might have been the case with those women who were made to hand their mulatto children over to the churchwardens of the parish. The children of Mary Banks were not the only mulatto bastard children to be bound based on custom rather than statute. Elizabeth Chilmaid's mulatto son Abraham Royston was bound out as an apprentice rather than a servant to a boatwright, Thomas Holliday. Because Royston was bound as an apprentice, he was contracted to serve Holliday for seven years instead of serving until he was thirty-one, which greatly reduced his bondage.[36]

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[36] Hanah Banks, York County, 1702: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 67; Elizabeth Banks, York County, 1704: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 181, 188; "An Act for Suppressing Outlying Slaves," Act XVI, *Hening's Statutes at Large*, III, 87;

The mulatto children of both Mary Banks and Elizabeth Chilmaid should have been bound to serve until they were at least thirty years old. While Elizabeth Banks might have served that long, she did so alongside her mother, or, at the very least, spent the first years of her life serving with her mother, whose indenture was extended once she had both Hanah and Elizabeth. Hanah, Mary Banks's first child, was bound for nine years less than the law required and Royston became an apprentice instead of serving as a mulatto bastard child. While these three cases do not suggest that all mulatto bastard children served shorter terms based on the so-called transgressions of their mothers, it does stand to reason that these children had even less power over their situations than did their mothers, and requiring them to serve into their thirties benefited no one but their masters. Henry Armitrading, an Accomack County resident, was late to exploit the mulatto bastard child in his care, but he eventually gained John's service, who was bound to serve him according to law. John had been left with Armitrading in 1696. Armitrading, it appears, had been caring for John since then, but had not bound him as a servant, although once John turned seven, he was probably capable of performing menial tasks, at the very least, Armitrading legalized his indenture before the court. So even John's binding out did not

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Abraham Royston, York County, 1706–1708: York County Deeds, Orders, Wills, 1706–1710, 13, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 19, 31; John, Accomack County, 1703: Accomack County Orders, 1703–1709, 79 (microfilm), Library of Virginia, Richmond, Virginia, 13; James Wyat, Augusta County, 1772: Augusta County Order Book, 1769–1773, 14, reel 66 (microfilm), Library of Virginia, Richmond, Virginia, 438–39; children of Catharine Williams, Augusta County, 1772: Augusta County Order Book, 1769–1773, 14, reel 66 (microfilm), Library of Virginia, Richmond, Virginia, 438–39; James Neal, Augusta County, 1774: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 24; George Lundy, Augusta County, 1775: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 92; Abraham Royston, York County, 1706–1708: York County Deeds, Orders, Wills, 1706–1710, 13, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 19, 31.

directly follow the rule of law, although his abided more closely to it than did those of Hanah and Elizabeth Banks and Abraham Royston.[37]

Despite the atypicality of the cases regarding the binding out of mulatto bastard children in the county records and the application of customary law over statutory law, that does not mean that a number of female servants were unable to see their children after they were sold by the churchwardens as servants, or watched as their masters or relatives or friends of their masters benefited through the binding of their children. Although not necessarily the original intent, those female servants were dually exploited, and the children born of their sexual relationships—whether forced or consensual—were put to work for the benefit of others while the mothers themselves were made to extend their contracts. Enslaved women were permanently bound, as were their children, and both worked for the benefit of their master. In the experiences of unfree women, then, both white and black bound laborers watched as their children were bound to work for life, if enslaved; or until very late in their lives, if servants. Their children, at least in the eyes of their masters and the parish churchwardens, were an additional set of hands to put to work for the benefit of the household or the parish.

While many of the female servants charged with fornication or bastardy did not have masters as brazen as Henry Smith of seventeenth-century Accomack County, these women were most certainly exploited for their productive and reproductive labor during their terms of service. Whether they were forced into sexual relationships with their masters, fellow servants, free white men, free blacks, or enslaved men, their fates were often sealed once they became pregnant, when they faced, and were often given, an

[37] John, Accomack County, 1703: Accomack County Orders, 1703–1709, 79 (microfilm), Library of Virginia, Richmond, Virginia, 13.

extended term of unfreedom. The fathers of these children, free or unfree, only faced punishment if they were identified, which did not happen on a regular basis, and the children of these unions, powerless from the beginning, were either sent to the churchwardens to be bound out or were bound by the masters or relatives of their mother's master. Despite the success of some servants when petitioning the courts against their masters, women bearing bastard children were rarely successful. And while some of these women might have avoided additional years of service had they been allowed to marry, many of them most likely would not have, as the sexual relationships they engaged in were not necessarily of their choosing. The bodies of servant women were used for the benefit of the households for which they labored, as were the bodies of free white Christian women who gave birth to mulatto children.

The relationships between female servants and their masters and female servants and the courts reinforced these servants' place within society; they were not enslaved, but neither were they free, but they were most certainly women and therefore were dually exploited by their masters and by the laws that were structured to give their masters significant advantages over them. Their servitude was more exploitative and demanding than that of white male servants. Unfortunately, for many female servants their temporary servitude was not always as temporary as they first believed, and their protection by the courts was non-existent in cases of marriage, fornication, and bastard-bearing. They were powerless against the charges against them and sometimes against the men with whom they interacted on a regular basis well into the eighteenth century. Even

when the courts decided according to custom over statute, female servants rarely gained much from these decisions. Their lives, in many ways, mirrored those of enslaved women rather than the free white women they hoped to one day become. And while unfree women were often the target of sexual exploitation, all servants could potentially fall victim to other forms of violence and ill-usage at the hands of their masters and mistresses, who sometimes felt it necessary to assert their dominance through abuse and remind servants of their place.

# CHAPTER 3
## BEYOND MODERATE CORRECTION: VIOLENCE, ABUSE, AND ILL-USAGE

In August 1678 Thomas Hellier, the servant of Cutbeard Williamson of Charles City County, Virginia, sat in prison awaiting his death for the murder of Williamson, Williamson's wife, and a maidservant. In a confession given to an Anglican minister the night before his hanging, Hellier recounted the murder: During the early hours of May 24, 1678, Hellier took up his ax and attempted to enter the room of his master and mistress. After a moment of hesitation and several attempts at breaking down the door, he gained entry. As he broke in Mrs. Williamson's maidservant hurried past him, with her so-called bed in hand. Hellier made clear that he meant the servant woman no harm and would have left her completely alone "had she kept out of [his] way." He approached Williamson's bed, struck him on the head with his ax multiple times, killing him. In the mean time, Hellier's mistress had gotten out of bed and was holding a chair in front of her for protection. Hellier approached her, struggled briefly, and despite her pleas begging to be spared, "nothing would satisfie [Hellier] but her Life" and "down she went without Mercy." At that moment the maidservant returned to help her mistress, but instead she "suffer'd the same cruel Fate [as] the other two." Within minutes Hellier killed his master, his mistress, and a fellow servant in an act of revenge for the mistreatment and abuse he had suffered on their plantation, "Hard Labour."[1]

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[1] Thomas Hellier, *The Vain Prodigal Life and Tragical Penitent Death of Thomas Hellier: Born at Whitchurch Near Lyme in Dorset-shire, who for Murdering His Master, Mistress, and a Maid, was Executed According to Law at Westover in Charles City, in the Country of Virginia, Neer the Plantation Called Hard Labour, where he Perpetrated the Said Murders; He Suffer'd on Munday the 5th of August, 1678 and was after Hanged up in Chains a Wind-mill Point on James River*. London, 1680. 43pp. *Sabin Americana*. Gale, Cengage Learning. Fondren Library, Rice University. 14 January 2013, 10–13 (first quotation on p. 12, second, third, and fourth quotations on p. 13). See also T. H. Breen, James H. Lewis, and Keith Schlesinger, "Motive for Murder: A Servant's Life in Virginia, 1678," *William and Mary Quarterly*, 3rd Ser., 40 (January 1983), 106–120. For work on early American criminality see Daniel E.

The misuse and abuse Hellier experienced while bound came mostly from the mistress of the household, although Hellier claimed that his servitude began with the lies and misleading of Cutbeard. Despite having heard many negative things about the Virginia colony and "abhor[ring] the Ax and the Haw," Hellier, in need of money, boarded a ship to Virginia on August 10, 1677 (A "haw" was a term used to turn a horse or a team of horses to the left. It is likely that Hellier was admitting to his dislike of plowing). Upon arrival Hellier was sold to Williamson and taken to "Hard Labour" in Charles City County, where Williamson promised that he would be put to work as a tutor "and not be set to laborious work, unless necessity did compel now and then." Once bound, however, Hellier was put to work in the fields, which left him "embittered." According to Hellier, though, the manual labor was not what drove him to kill; it was the "Ill-usage which [he] received daily and hourly from [his] ill-tongued Mistress . . . who would . . . swear and curse . . . [cast] on [him] continually biting Taunts and bitter Flouts; [and] like a live Ghost would impertinently haunt [him.]" This abuse first drove Hellier to run away, but after being returned to his master and treated even worse than before, he set his mind to kill the Williamsons. It was the continued "odious and inveterate Tongue" of his mistress, he claimed, that induced him to commit murder.[2]

This account of Hellier's experience, *The Vain Prodigal Life, and Tragical Penitent Death of Thomas Hellier*, was published as a pamphlet in London only two years after Hellier's death, and despite occurring during the late seventeenth century, it

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Williams, *Pillars of Salt: An Anthology of Early American Criminal Narratives* (Denver: Madison House Publicity, 1993.

[2] Hellier, *Vain Prodigal Life and Tragical Death*, 10–12 (first quotation on p. 10, second, third, and fourth quotations on p. 11, fifth quotation on p. 12). Haw, *Oxford English Dictionary*, s.v. "Haw," accessed March 22, 2013, http://www.oed.com/view/Entry/84748?rskey=nUAtUV&result=6#eid.

could very well have served as a warning to other Englanders about the miserable life that awaited them as servants in the Americas. Much like the stories of James Revel, a convict servant who wrote an account of his experiences in the colonies upon his return to London, and William Moraley, a servant like Hellier who found himself destitute and in need of money and provisions, Hellier's story most likely served as a cautionary tale. The name of Hellier's master, "Cutbeard," and the plantation on which he toiled, "Hard Labour," even suggest some degree of embellishment. Regardless of its truth or fiction, however, Hellier's *Vain Prodigal Life and Tragical Death* offers insight into the misuse that could potentially take place between servants and their masters during bondage. And after reading of the manipulation and exploitation used by some masters to keep female servants from becoming free and what will be presented later about the attempts of masters to keep their servants bound well after the expiration of their terms, the violence in this story, or lesser forms of it, most likely took place in a number of households throughout early Virginia. While Hellier's story might well have been fictional, the experiences of servants who appeared before Virginia county courts during the eighteenth century complaining of ill-usage, abuse, and violence—and the many servants who were kept from making their complaints—do not stray far from this account.

Although there is no record of any servant rising up against his or her master or mistress and exacting revenge through murder, there are a few cases in which servants reacted violently toward their masters, most likely in response to their own mistreatment. The verbal abuse and tongue-lashings that Hellier

recounted *is* mirrored in the experiences of some eighteenth-century servants; therefore, Hellier's experience, while possibly made up or sensationalized for the English press, did contain elements of truth. The Williamsons, along with those masters who exploited and manipulated their female servants, those who attempted to deny their servants their freedom dues at the end of their terms, and those who, in this chapter, exacted various forms of ill-usage, abuse, and violence upon their servants, did so as a way to assert their dominance over a mostly white and temporarily bound labor force who many scholars have asserted masters found common cause with during the eighteenth century. In most cases masters accused of misuse or ill-usage of their servants failed to provide proper training, clothing, adequate food, or lodging for their servants while those who abused their servants engaged in active whipping, verbal, and physical assaults of their laborers. It is unlikely, then, that when doling out treatment such as this, masters regarded their servants as anything but bonded laborers.

The relative absence of cases addressing violence in county court records and this possibly embellished story of Thomas Hellier does in no way suggest that violence was absent in most master-servant relationships but instead that these cases rarely made it before the justices of the peace. In instances where masters and mistresses were abusing their servants, either verbally or physically, the threat of continued abuse after appearing before the court most likely kept servants from petitioning. For those masters physically abused by their servants, their reputations were on the line, and they did not want to have to appear in front of a panel of their peers and admit that they had lost control of their work force. The use of violence and abuse by both masters or mistresses and servants was a play for power. Masters intended to remind servants of their place within the household

and within society as bonded laborers, regardless of race and the temporality of their condition, and servants used violence as a way to protect themselves from misuse and claim even a small amount of power over their own lives.

Some masters and mistresses used abuse—both physical and verbal—as a tool of dominance and power over their servants. They used it as a way to belittle, demean, and to remind servants of their unfreedom. While some masters owned both servants and slaves, like Landon Carter of Sabine Hall in Virginia's Northern Neck, in other households, servants were the only source of labor that masters or mistresses could afford; and in a world most often defined not only by black bondage and white freedom but also by the acquisition of property and the owning of others, temporary white laborers were for all intents and purposes these small landowners' slaves. Both planters and smaller, poorer property holders sometimes asserted their power and control in a number of ways. In the most extreme cases they used verbal and physical abuse, but in others they disregarded the laws that were in place protecting servants from any misuse and correction beyond what the law deemed "moderate." For servants, violence might have been used as a means to protect themselves, as a drastic form of resistance, or as a way to assert their own power. In responding to violence with violence, servants might have reminded their masters that there were laws against their mistreatment or that their temporary unfreedom did not trump their whiteness; although, as has already been discussed, statutory law did not always hold as much weight as some might have hoped. The fact that servants were of the same race as their masters did not seem to weigh heavily on the minds of some of their masters, who were

more concerned with gaining power and authority that would put them on more equal footing with the slaveholders and plantation owners of the region. Masters who bound white servants focused on the bondage of that labor force and sought to assert their power over them, and they sometimes did so through violent means.[3]

Eighteenth-century Virginians were no strangers to violence. In a region that experienced Indian warfare during the early colonial period and a society with a relatively large slave population, violence as a way to assert domination over others was certainly well entrenched. At the time, violence against Native Americans and the enslaved was justified by whites because both groups were seen as the so-called other and considered as uncivilized and unequal in the eyes of white Virginians. Especially since by the late seventeenth century, at least according to Edmund Morgan, white Virginians, regardless of their societal status or class, lived in relative solidarity. The law did call for violence to be used as punishment against anyone who violated the law, regardless of race or status. By 1662 all Virginia courthouses were required to erect "a pillory, a pair of stocks, and a whipping post" as well as "a ducking stoole in such a place as they shall think convenient." A pillory consisted of a wooden frame with holes or rings set upon a post. The holes and rings were for the head and hands of the person being punished. Stocks, similar to the pillory, held the offender's feet. The whipping post was just that: a

[3] For examples that some masters were not far above their servants on Virginia's social ladder see Anthony Parent, *Foul Means: The Formation of a Slave Society in Virginia, 1660–1740* (Chapel Hill: University of North Carolina Press, 2003), 57; Teri L. Snyder, "'To Seek for Justice': Gender, Servitude, and Household Governance in the Early Modern Chesapeake," in Douglas Bradburn and John C. Coombs, eds., *Early Modern Virginia: Reconsidering the Old Dominion* (Charlottesville: University of Virginia Press, 2011), 128–57, esp. 131, 138; John C. Coombs, "Beyond the 'Origins Debate': Rethinking the Rise of Virginia Slavery," in Bradburn and Coombs, eds., *Early Modern Virginia*, 239–78, esp. 250; T. H. Breen, James H. Lewis, and Keith Schlesinger, "Motive for Murder: A Servant's Life in Virginia, 1678," *William and Mary Quarterly*, 3rd ser., 40 (January 1983), 106–120, esp. 108; Margaret M. R. Kellow, "Indentured Servitude in Eighteenth-Century Maryland," *Histoire Sociale*, 34 (November 1984), 229–55, esp. 229; Christine Daniels, "Alternative Workers in a Slave Economy: Kent County, Maryland, 1675–1810" (Ph.D. dissertation, Johns Hopkins University, 1990).

wooden post to which criminals and offenders were tied to receive any number of lashes. And a ducking stool was a chair positioned at the end of a movable plank on which offenders were tied and dunked or plunged repeatedly into the water. While these tools for punishment were to be built in a "convenient" location, they were also intended to be put in places where the public could observe, ridicule, and abuse the offenders, and where instruments of punishment could be used as an example to warn others to not follow in their footsteps and, instead, to abide by the law. In seventeenth- and eighteenth-century Virginia, "many offences [were] punishable . . . with corporall punishments"; therefore every courthouse in Virginia needed the proper equipment to dole out these punishments and bring the proper shame and embarrassment to those who broke the law. These displays of violence—during wars or rebellions, against the enslaved, and as a consequence of illegal actions—were all justified in the eyes of early Virginians.[4]

Indians and slaves were racially and ethnically different from most Virginians and were most often punished for their crimes not before the county court or the General Court but instead a special court called the court of oyer and terminer. And any slave found breaking the law was brought before this court and

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[4] For other works on violence in early Virginia, see Terri L. Snyder, *Brabbling Women: Disorderly Speech and the Law in Early Virginia* (Ithaca: Cornell University Press, 2003); Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill: University of North Carolina Press, 1996); Rebecca Anne Goetz, *The Baptism of Early Virginia: How Christianity Created Race* (Baltimore: Johns Hopkins University Press, 2012). For work on violence through history see, Richard Maxwell Brown, *No Duty to Retreat: Violence and Values in American History and Society* (New York: Oxford University Press, 1991).
"Pillories to be Erected at Each Courthouse, &c. (1662)," Act XXXIX, *Hening's Statutes at Large*, II, 75 (quotations). Pillory, *Oxford English Dictionary Online*, s.v. "Pillory," accessed February 27, 2013, http://www.oed.com/view/Entry/143930?rskey=qi9ELp&result=1&isAdvanced=false#eid; Stocks, *Oxford English Dictionary Online*, s.v. "Stock," accessed February 27, 2013, http://www.oed.com/view/Entry/190599?rskey=RnBk89&result=5&isAdvanced=false#eid; Whipping Post, *Oxford English Dictionary*, s.v. "Whipping-post," accessed February 27, 2013, http://www.oed.com/view/Entry/228434?redirectedFrom=whipping+post#eid14330956; Ducking Stool, *Oxford English Dictionary*, s.v. "Ducking stool," accessed February 27, 2013, http://www.oed.com/view/Entry/58195?redirectedFrom=ducking+stool#eid.

properly punished for their crimes. Interestingly, the misuse and abuse of servants, most of whom were white, was justified by law in much the same way. Servants, although only bound temporarily, were not equal to their masters and were expected to live within the confines of laws established specifically to control their behavior (and that of slaves), which saw them as temporarily bound and therefore expected to serve and obey their masters. When servants failed to honor their contracts or broke the law, they were punished, either through whippings, as seen in the cases of some women servants accused of fornication and bastard-bearing, or through an extension of their indenture, or even just being returned to the home of an abusive master. In terms of the violence and misuse experienced by some servants, masters and mistresses were allowed to use moderate correction on their servants. It is likely that masters and mistresses who asserted their power in this way did not see their temporarily bound, white laborers any differently than other masters viewed their enslaved laborers and inflicted violence when necessary in order to maintain control and to remind their white laborers who held the power. Some middling planters and smaller farmers failed to see the difference between their white bound labor source and the black labor source of wealthier planters in the region, and those wealthier planters who owned both servants and slaves also sometimes failed to see this differences. And while the law did allow servants some protections while under contract, there were also laws that protected masters from mistreatment by their servants.[5]

Violence, then, between masters, mistresses, servants, and slaves, while not overwhelmingly present in the historical record, did happen. This is not to say that it was not a regular occurrence within households or on plantations, especially those that housed

[5] Hugh F. Rankin, *Criminal Trial Proceedings in the General Court of Colonial Virginia* (Williamsburg: Colonial Williamsburg, 1965), 46.

both servants and slaves, but it suggests that cases of overt violence were not often brought before the court. A possible reason for this might be that many servants were threatened with more violence, mistreatment, or abuse if they attempted to petition the courts. Conversely, masters might have been ashamed to present themselves before the court for having been injured or abused by their servants, over whom they were supposed to have power and hoped to avoid public humiliation. They were in favor of humiliation when making examples of their disobedient servants and slaves, but what was sauce for the goose was not sauce for the gander. Regardless, violence was used as a way for both masters and servants to assert their dominance, but for different reasons. Masters and mistresses might have felt they needed it to maintain control over their bonded laborers and as a way to prove their position as the head of the household that employed white servants who were in some cases not far below them on the social ladder. Servants might have employed violence as a means of protection or resistance. Violence was, in most cases, the most extreme form of power used by masters and servants to assert their power or defend themselves. Masters and mistresses used physical and verbal abuse and other forms of mistreatment to establish their position within the household and even in society, for they were above the status of their servants, and those who were not large planters believed they were not far below that of wealthy planters. Servants used violence as a way to assert control over themselves and as a way to protest their wrongful misuse.

The legal requirement that all Virginia courthouses erect pillories, stocks, whipping posts, and ducking stools in the mid-1660s was not the first evidence

that corporal punishment was used to discipline law breakers. Runaway servants, who will be discussed in greater detail in chapter 4, were branded on the cheek with the letter "R" if they were caught running away more than once. This law, first established in 1643, was also part of the law codes of 1656 and 1658. The 1656 law ordered serial runaways—servants, not slaves—to be branded with the letter "R" but did not specify where; the 1658 law ordered them branded on the shoulder instead of on the face. By 1659 their hair was cut "close above the ears," and they were no longer branded. These laws, used not only to punish but also to identify disobedient servants, were only one way in which servants were mistreated during their bondage. They were dehumanized with branding and hair shearing in order to be identifiable to others as disobedient servants. These actions suggest the relative ease with which colonial Virginians doled out physical punishment but also indicate the need to identify white, unfree laborers who were not readily identifiable as bonded labor by the color of their skin. While it must be acknowledged that those servants were punished for running away, which went against the contract that they agreed to with their masters, the question persists of why servants resisted in the first place. Many of these servants might have attempted to escape their duties because of abuse and mistreatment, which were also against the law but more likely to be overlooked in a society that often favored custom and the master class over statutory law and bonded unfree labor, black or white.[6]

Masters, free to own their African slaves for life and the labor of their white (and sometimes mulatto) servants for an agreed upon number of years, were given certain

[6] "Act XXII (1643)," *Hening's Statutes at Large*, I, 254–55; "Act XI (1656)," *Hening's Statutes at Large*, I, 401; "Against Runnaway Servants (1658)," Act XVI, *Hening's Statutes at Large*, I, 440; "How to Know a Runaway Servant (1659)," Act III, *Hening's Statutes at Large*, I, 518 (quotation). See also "An Act Concerning Runaways (1670)," Act I, *Hening's Statutes at Large*, II, 278.

parameters regarding the treatment of their laborers. Unfortunately for slaves, masters were most often given the freedom to abuse, misuse, and enact violence as they saw fit, but there were laws against overt and violent misuse of their servants. Throughout the seventeenth and eighteenth century, the law stated that masters and mistresses were not to misuse their servants. The earliest law, established in 1643, did not go into specifics regarding what "misuse" entailed but apparently left it up to the court officials to decide the truth behind the servants' complaints and the severity of the mistreatment. Masters who were complained of left the court with a warning and their no doubt unwilling servant, except in the most egregious of cases. By the mid-seventeenth century "misuse" became "harsh and bad usage" in addition to servants being denied food and necessities. If masters or mistresses were found guilty of "bad usage," they were, again, only given a warning and the matter was to be taken care of as the courts saw fit. The servant who was the victim of the ill-usage, though, was to remain in the household until the expiration of his or her indenture. By 1662 the laws became more specific, and instead of ill-usage being discussed in passing in laws regarding runaway servants, a law entitled "Cruelty of Masters Prohibited" was enacted and began by addressing the "barbarous usuage of some servants by cruell masters" and the "scandal and infamy" that this mistreatment brought to Virginia on a group of "people who would willingly adventure themselves hither." The law also required masters to provide their servants with proper food, clothing, and lodging and ordered that correction of servants should "not exceed the bounds of moderation . . . beyond the merritt of their offences." The master or

mistress was then given a warning, and, if necessary, the servant received "remedy for his grievances." It appears that masters and mistresses accused of misuse, which the law clearly stated was not allowed, were not necessarily punished for their actions, while servants who ran away, stole, or became pregnant immediately had their terms extended. And there was no mention of what might happen to a master or mistress whose servant accused them of misuse a second time. It is possible that one warning was enough to keep them out of court a second time, in order to avoid the humiliation of a servant's accusations; more likely, that one warning was enough to ensure that masters made it clear to their servants that they would experience harsher abuse if they attempted to complain against them a second time. This law remained in place until 1705, when the duty of masters was then outlined in the larger "Act Concerning Servants and Slaves." That these laws were even established again suggests the lack of solidarity that existed between masters and their white laborers. If masters had to be told what proper treatment meant, but given permission to moderately correct their servants, it is most likely that they did not share much other than the household in which they lived and labored. Moreover, these laws regarding mistreatment and others discussing how servants were to be punished for certain actions suggest that in the eyes of the law servants were viewed very similarly to slaves. The 1705 act even considers how to treat, control, and punish servants and slaves in the same act.[7]

The eighteenth-century laws addressing masters' obligations to their servants were more detailed than those of the seventeenth century but established the same

[7] "Act XXII (1643)," *Hening's Statutes at Large*, I, 255 (first quotation); "Act XVI (1658)," *Hening's Statutes at Large*, I, 440 (second quotation); "Cruelty of Masters Prohibited (1662)," Act CII, *Hening's Statutes at Large*, II, 117–118 (third, fourth, and fifth quotations on p. 117, sixth and seventh quotations on p. 118).

precedent: provide for your servants that which was agreed upon in the contract, do not mistreat them, and use restraint when abusing them to safeguard yourself from being called to court. If, however, you are called to court, just make sure your servant does not issue a second complaint against you; he or she will be returned to your service after the first complaint, and as long as your servant does not issue a second complaint against you, you are free to keep him or her until the end of their contract, despite evidence of at least one instance of abuse or mistreatment. What was added to this 1705 law was that if a servant was white and Christian, he or she was not allowed to be whipped naked "without an order from a justice of the peace." Any master found to have done so owed his servant forty shillings sterling, recoverable upon petition within six months of the whipping. The 1748 law regarding servants and slaves, which was eventually repealed and replaced by the 1753 "Act for the Better Government of Servants and Slaves," established the same precedent regarding a masters' duty to his or her servants, the use of moderate correction, and the disallowance of whipping white, Christian servants, but increased the fine for doing so to fifty shillings current money. The duty of masters to their servants remained a part of Virginia law even after the American Revolution. A 1785 law stated that masters were still required to provide food, lodging, and clothing for their servants, but said nothing of correction, whether moderate or otherwise, and also included the freedom dues masters were expected to provide at the end of their servant's service. Masters were also required to care for and keep sick servants in their care, even when they were unable to work. This law and the masters who disobeyed it will be discussed

in chapter 5, along with cases in which masters withheld or refused their servants freedom dues, which, while clearly a form of ill-usage, was quite widespread. The withholding of freedom dues deserves more attention than can be given alongside cases of verbal and physical abuse and other forms of mistreatment, especially since in most cases of violence and ill-use servants failed to gain anything but a return to the household in which their master or mistress had enacted the abuse. Those servants who petitioned for freedom dues experienced more success.[8]

Apprentices were bound under much the same laws as other servants during the eighteenth century. They, however, were to be schooled in a trade and taught to read and write. Orphan apprentices remained bound until they were twenty-one-years old, but others were bound out from between one and seven years. Both orphans and children whose parents could not properly provide for them were bound out in this way. Despite the promise of training and some schooling, apprentices received the same dues at the end of their service as indentured and customary servants did: corn and clothes. By 1748, which is rather late, laws regarding apprentices included the duties and expectations of the apprentice's master or mistress while they were bound. Until this point the laws regarding the treatment of all other servants most likely sufficed. So, during the mid-eighteenth century it was established that apprentices were to be provided with proper

[8] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section VII, *Hening's Statutes at Large*, III, 448 (quotation); "An Act Concerning Servants and Slaves (1748)," Chapter XIV, Section V, *Hening's Statutes at Large*, V, 548; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section V, *Hening's Statutes at Large*, VI, 357; "An Act Concerning Servants (1785)," Chapter LXXXIII, Section II, *Hening's Statutes at Large*, XII, 191. See examples in chapter 5 of masters' obligation to sick servants. See also "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section IX, *Hening's Statutes at Large*, III, 449; "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XII, *Hening's Statutes at Large*, III, 450–51; "An Act Concerning Servants and Slaves (1748)," Chapter XIV, Section VII, *Hening's Statutes at Large*, V, 549–50; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section VII, *Hening's Statutes at Large*, VI, 358–59.

clothing, food, and lodging, like their servant counterparts, and any master who failed to provide these provisions or did not teach them the agreed upon trade, was at risk of losing his or her apprentice. The court had the right to remove from a household any apprentice that was being ill-used in this way. Those apprentices were then usually bound to someone else. Unlike other servants who were not contracted to learn a skill, an indenture of apprenticeship guaranteed that certain skills would be learned during the years of bondage; therefore, the courts would bind abused or mistreated apprentices to another master who could teach them those skills. Other servants were simply returned to their masters upon complaint of abuse and made to serve out their terms, as there was no guarantee of learning a trade or how to read and write, which seems to have made them less valuable in the eyes of the law. But despite the law's clear articulation of how servants and apprentices were to be handled after evidence of abuse had been presented to them, many apprentices, like their other servant counterparts, were merely returned to their masters who apparently promised to change their abusive ways.[9]

Late-eighteenth-century laws continued to slightly alter who could become apprentices and how they were expected to be treated, but the general spirit of the laws remained the same. In 1769 bastard children were added to the list of children who could be bound as apprentices, and this law reiterated the duties of masters and mistresses to teach those children a trade or skill, to read and write, and to provide them with the necessary provisions while bound. As illustrated in the previous chapter, some mulatto bastard children, like Hanah and Elizabeth

[9] "An Act for the Better Management and Security of Orphans, and Their Estates (1748), Chapter IV, Section X, *Hening's Statutes at Large*, V, 452–53.

Banks and Abraham Royston—were bound as such even early in the century. Any apprentice who was mistreated could be removed from their master's household and and serve out their term elsewhere. After the American Revolution apprentices, along with hired servants, were allowed to complain to the courts regarding misuse and abuse by their masters ranging anywhere from immoderate correction to insufficient provisions. As was established in earlier laws, the court could remove an apprentice from his or her master's household for such treatment. This 1785 law, though, was the first law that specifically addressed any form of correction, moderate or otherwise, being used against apprentices specifically. It is most likely, as with some of the earlier laws, that the treatment and correction of apprentices was the same as that used against other servants.[10]

Interestingly, the 1705 law that appeared to protect servants from immoderate or violent correction also included a section regarding the correction of slaves. In those cases where a "master, or owner, or other person," corrected a resistant slave and that slave "happen[ed] to be killed in such correction," that person "shall be free and acquit[ted] of all punishment and accusation for the same, as if such accident had never happened." The law clearly indicated a difference in the treatment of servants and slaves; after all, servants were bound only temporarily and most often were of the same Anglo-American background as their masters, while slaves were of African descent and were

[10] "An Act for the Distribution of Intestates Estates Declaring Widows Rights to Their Deceased Husbands Estates; and For Securing Orphans Estates (1705)," Chapter XXXIII, Section XIV, *Hening's Statutes at Large*, III, 375–76; "An Act for the Better Securing the Paiment of Levies, and Restraint of Vagrant and Idle People; and For the More Effectual Discovery and Prosecution of Persons Having Bastard Children; and For Making Better Provision For the Poor (1727)," Chapter VII, Section XI, *Hening's Statutes at Large*, IV, 212; "An Act for the Better Management and Security of Orphans, and Their Estates (1748), Chapter IV, Section X, *Hening's Statutes at Large*, V, 452–53; "An Act for the Relief of Parishes from Such Charges as May Arise from Bastard Children Born within the Same (1769)," Chapter XXVII, Section IV, *Hening's Statutes at Large*, VIII, 376; "An Act Concerning Guardians, Infants, Masters, and Apprentices (1785)," Chapter LXXXVI, Section II, *Hening's Statutes at Large*, XI, 198–99.

bought and sold like property and worked like animals. The law also permitted anyone "to kill and destroy" any slave who remained absent after a proper proclamation had been made "by such ways and means as he, she, or they shall think fit, without accusation or impeachment of any crime for the same." In addition, any slave who was caught by the sheriff "or any other person, upon the application of the owner of the said slave" was to be punished "either by dismembering, or any other way, not touching his life" as a way to "[terrify] others from the like practices." The master of any slave who was killed was properly reimbursed by the state for the loss of property. This still does not suggest any real racial harmony between servants and their masters because servants were still mistreated and exploited despite the color of their skin. [11]

Despite the clear differences in how the law dealt with the use of violence against these two sources of unfree labor, masters treated whatever labor force they had—black or white, slave or free—however they saw fit and only faced a punishment if their servants made it to the court to accuse them of violence or misuse more than once. And, although the death of or violence toward a servant could not be cast aside as though it never happened, having a servant complain against their master and then be returned to that household was quite similar in the sense that the master suffered no consequence, especially if the servant never appeared to present a second complaint. Once the servant left the court, the justices effectively dismissed the event. In a society in which it was legal to dismember and kill the enslaved and undergo no questioning for it, it is highly

[11] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Sections XXXIV, XXXVII, XXXVIII *Hening's Statutes at Large*, III, 459, 460–61 (first, second, and third quotations on p. 459, fourth and fifth quotations on p. 460, six, seventh, and eighth quotations on p. 461).

probable that some white servants received harsh treatment and abuse at the hands of their masters and mistresses but never made it to court to report it. Masters and mistresses most likely corrected their servants with a heavier hand than the law might suggest. The reason they got away with it was by threatening their servants of further punishment for speaking out against them. The masters, then, maintained a clear upper hand and avoided the fines and punishments outlined by law. Masters were probably able to get away with both verbal and physical abuse as well as a variety of other forms of mistreatment, including the withholding of provisions or insufficient loding, but they were also compelled to send their servants to receive public whippings for breaking certain laws. For some masters and mistresses (but not all), any opportunity they had to show their power over their white servants, behind closed doors or in public, might have allowed them to justify their position in society, which they hoped would put them on more equal footing with the planter elite.

Whereas free persons who disobeyed the law were most often forced to pay fines, because servants were without money or tobacco, by 1705 they were to be whipped and received "twenty lashes for every five hundred pounds of tobacco" they owed for whatever crime or misdeed they committed. The number of lashes was increased to twenty-five in 1753. Some servants, like Joice Cooper, Mary Case, Mary Low, Mary Layer, and Ester Rose, were whipped for bastard-bearing. Other servants and slaves caught killing deer outside of the specified season were also victims of the whipping post and received thirty lashes for their crime. It was also written that servants were not allowed to receive more than forty lashes at one time. This attempt to show some sort of restraint by limiting the number of lashes at any given time does not suggest compassion

by the court. Instead, with the lash limit set at such a high number, it acted as a warning against misbehavior and against being made a public spectacle at the whipping post. The 1705 "Act Concerning Servants and Slaves" also gave servants the option to pay fifty shillings for their offense and avoid the whipping post altogether, but that often required finding someone to pay that fine for them. Upon finding someone, a servant was made to serve that benefactor one and a half months for every one hundred pounds of tobacco that person paid on their behalf, after the expiration of their indenture, which extended their time in bondage. This option was no longer available by 1753. Servants' dependence on the benevolence of free persons to save them from the whipping post does illustrate that some colonists were compassionate to the condition of the temporarily bound and were willing to help them, but it must also be remembered that those who paid a disobedient servant's fine then received over a month's worth of service and most likely did not view that service as labor performed by an equal.[12]

Based on the historical record, in most cases involving servants, regardless of the final decision of the court, masters attempted to control, manipulate, and exploit servants who they did not necessarily view as white laborers and future free persons but as unfree laborers bound to serve them. For many masters who owned servants, there was little or no racial solidarity between them and their white laborers. In cases where servants had broken laws, resisted, or disobeyed,

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[12] For a discussion of Joice Cooper, Mary Case, Mary Low, Mary Layer, and Ester Rose, see chapter 2. "An Act Prohibiting the Unseasonable Killing of Deer (1699)," Act VII, *Hening's Statutes at Large*, III, 180; "An Act to Prevent Killing Deer at Unseasonable Times (1705)," Chapter L, Section III, *Hening's Statutes at Large*, 463; "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XVII, *Hening's Statutes at Large*, III, 452 (quotation); "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section V, *Hening's Statutes at Large*, VI, 357.

masters most likely took the time to remind servants of their place within society and within the household once they returned from the whipping post. And because that abuse was not always reported, the masters were not reprimanded or given a warning for it. Moreover, in many cases they might argue that their violence was within the realm of moderate correction and therefore acceptable in the eyes of the law and the court justices. Servants who enacted any degree of violence on their masters or their master's property, however, were not provided the same courtesy, and there were laws in place that clearly outlined how disobedient servants, if brought before the court, would be dealt with. The court's punishments, as already suggested, were only part of the punishment they received when acting out. The other harsher punishments were carried out by their masters behind closed doors.

The earliest Virginia laws warned against unruly servants and put rules in place for punishing or subduing those servants who acted out in a violent manner toward their masters. In 1662 the law referred to the actions of some servants as "audatious unruliness" and called those servants "stubborne and incorrigible"; therefore, any servant "that shall lay violent hands on his or her master, mistress or overseer" was ordered to serve their master an additional year after their contract expired. This law in particular did not punish violence with violence, but in most cases it was probably likely that the reason the servant acted out violently in the first place was in reaction to some form of wrongdoing against them, whether physical or verbal abuse, or the withholding of proper food, clothing, or lodging. By 1705 servant violence toward their masters was placed within the context of resistance, and servants were no longer referred to as "unruly," "incorrigible" or "stubborne." The punishment, however, remained the same, and any

servant who "offer[ed] violence" toward their master, mistress, or overseer was made to serve one year of additional time. This same law appeared in the 1748 (repealed) act concerning servants and slaves, as well as in the 1753 act.[13]

Virginia law set out what appeared to be safeguards for both masters and servants entering into labor contracts. The historical record suggests that in cases of age adjudgment, bastard-bearing, disciplining runaways, and freedom dues, these laws were effective, and both masters and servants petitioned the courts to obtain what was rightfully theirs, whether additional service from disobedient servants or the freedom dues guaranteed by masters to servants upon agreeing to serve. This is not to say that the courts were ineffective in dealing with cases of violence, whether that be master violence against servants, or servant violence against their masters. The record, however, is not as rich. The number of cases of violence or abuse that came before the Virginia county courts in the eighteenth century was limited. The largest number of petitions came from apprentices complaining of misuse.

The ways that masters treated their servants and apprentices varied greatly from household to household. Some masters failed to provide their servants with sufficient food, clothing, and lodging; others physically or verbally abused their servants when disciplining or proving their power; and still more failed to teach their apprentices the skills that were agreed upon in the initial contract. All of this

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[13] Other forms of servant resistance, including running away and theft, will be discussed in detail in chapter 4. This chapter will focus more directly on physical violence by both masters and servants as a display of dominance and power by masters and as a form of protection or resistance by servants; "Against Unruly Servants (1662)," Act CIII, *Hening's Statutes at Large*, II, 118 (first, second, and third quotations); "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XIV, *Hening's Statutes at Large*, III, 451 (fourth quotation). "An Act Concerning Servants and Slaves (1748)," Chapter XIV, Section XI, *Hening's Statutes at Large*, V, 551; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section VII, *Hening's Statutes at Large*, VI, 359.

misuse and abuse, regardless of its severity, was grounds for complaint by servants, and they could take their masters to court in hopes of receiving some redress for their masters' neglect and mistreatment. Unfortunately, the court's decisions varied almost as much as the severity of mistreatment. A few masters were forced to give up their apprentices, and others returned home with their servants having guaranteed the court that they would no longer mistreat them. Many of these servants never appear in court again, but this does not necessarily mean that their masters stayed true to their promise to the court justices; it might even suggest that their mistreatment became so severe and violent that their servants were unable—either physically or out of fear of further abuse—to appear before the court for a second time. The mistreatment and ill-use experienced by servants and apprentices in early Virginia varied greatly, and this misuse at the hands of their masters not only reminded them of their servile condition but also of the power their masters held over them while in temporary bondage. In many ways, servants were treated more nearly like slaves than like fellow free whites.

Between 1700 and 1750, several cases of ill-usage were presented before the York, Accomack, and Augusta County courts. Ill-usage, or misuse, included a range of mistreatment by a master, including a failure to provide provisions such as proper food, clothing, or lodging or a failure to train apprentices in a particular trade. This does not mean that ill-usage did not include more severe forms of misuse like physical or verbal abuse, but because there were instances in which servants complained for overt violence, discussions of cases involving ill-usage are here separated from those involving more clearly stated abuse. The severity of the misuse is secondary, though, since the laws against it were clearly stated, and masters were aware of their duties to their servants

upon signing them to a contract. A master's or mistress's decision to exploit, abuse, and misuse his or her white servants challenges the well-entrenched argument that white solidarity reigned in eighteenth-century Virginia. White masters were actually bound more tightly to their views of status and power than they were to the whiteness or blackness of their unfree labor force.

The cases of misuse that came before Virginia county courts involved many more apprentices than other types of servants, and the types of ill-usage reported to the court justices and the outcomes varied. By 1705 William Wardell had been in the service of his master, Richard Hill, for twelve years. Despite having been bound as an apprentice, Wardell had yet to receive any training as a weaver. While the court did not dismiss the case and believed Wardell's complaint to be legitimate, Hill promised to teach him the art of weaving during the time remaining on Wardell's contract; therefore, Wardell was returned to his master's household. But after keeping Wardell as a servant and assigning him basic household tasks for twelve years, it is unlikely that Hill actually taught him any valuable skill before the expiration of his contract. Charles Davis and Thomas Cornish experienced similar misuse in 1715 and 1741. Davis was promised by his master that he would be taught to read and write, and not only did his master fail to provide him with those skills but also the basic provisions Davis was guaranteed under law. Cornish was bound to serve Arthur Dickeson as an apprentice for five years and learn the trade of carpentry, but he neither learned this trade nor received proper clothing during his indenture. Cornish was returned to Dickeson to serve out the rest of his contract despite his claims against

Dickeson. Dickeson most likely received a warning, but if Cornish appeared to complain a second time, the court would have been more inclined to remove the apprentice from Dickeson's service. Another apprentice, Benjamin Moss, complained in 1739 that his master Walter Taylor of Yorktown failed to provide for him or use him properly as an apprentice, which most likely means that Moss was not taught the trade he was indentured to learn. Unlike Wardell and Cornish, Moss was removed from Taylor's home and bound out to Robert Ranson, but Moss was not the only servant Taylor had mistreated, which might suggest why Moss was removed upon first complaint.[14]

Nine months before Moss complained of ill-usage, a servant woman named Sarah Hall had testified that Taylor refused to provide her with proper clothing during her term, one of the same complaints made by Moss. She was temporarily removed from Taylor's home and assigned to work for John Butterworth for wages while the court made a decision regarding Taylor's mistreatment; that was the last appearance she made before the court, and there was no mention of Taylor's previous mistreatment of his unfree laborers when Benjamin Moss issued his complaint. Taylor's failure to provide for his servants suggests that he disregarded the legal expectations put upon him by binding servants and instead treated them according to society's expectations of those who owned bonded labor, whether permanent or temporary: as unfree laborers who were not his equals and over whom he could prove his power, even if that power did not go far beyond

[14] William Wardell, Accomack County, 1705: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 53, 53a; Charles Davis, Accomack County, 1715: Accomack County Orders, 1714–1717, reel 80 (microfilm), Library of Virginia, Richmond, Virginia, 5a; Thomas Cornish, York County, 1741, 1742: York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 72, 81; Benjamin Moss, York County, 1739: York County Deeds, Orders, Wills, 1732–1740, 18, reel 9 (microfilm), Library of Virginia, Richmond, Virginia, 524. For additional work on apprentices and children bound to labor, see Sharon Braslaw Sundue, *Industrious in Their Stations: Young People at Work in Urban America, 1720–1810* (Charlottesville: University of Virginia Press, 2009).

his household. His servants might have been removed from his household because he was known for his mistreatment, and failure to provide for them was only one way in which he misused his servants. He might have also abused them. William Martin, the apprentice of Revel Custis of Accomack County, was also removed from his master's care after he complained of misuse in 1766; and in the same year Betty Barber, a servant in Richmond County, accused her master of ill-usage. Four years later, Robert Rodgers's master Josiah Heath promised to provide him with proper clothing but only after Rodgers complained of his ill-usage.[15]

In these cases of ill-usage in which most apprentices and servants were returned to their master's care after complaining in court, only one case was deemed by the court to be groundless. Thomas Hobday appeared before the York County justices in 1745 and issued a complaint against his master. The court threw out the case, claiming Hobday had no basis on which to make the complaint. There are several possibilities as to why Hobday's was the only one found in the historical record to be found groundless. First, it might, in fact, have been groundless, and Hobday may have appeared before the court as a way to manipulate the justices or to resist his condition or his master despite there being no ill-usage. Second, Hobday's master, James Bird, might have had social or economic relationships with some of the York County justices who then did him a favor by dismissing his servant's case. The rarity of this decision does not suggest

[15] Sarah Hall, York County, 1739: York County Deeds, Orders, Wills, 1732–1740, 18, reel 9 (microfilm), Library of Virginia, Richmond, Virginia, 479; William Martin, Accomack County, 1766: Accomack County Orders, 1765–1767, reel 83 (microfilm), Library of Virginia, Richmond, Virginia, 134; Betty Barber, Richmond County, 1766: Richmond County Order Book, 1765–1769, 16, reel 37 (microfilm), Library of Virginia, Richmond, Virginia, 134; Robert Rodgers, Accomack County, 1770: Accomack County Orders, 1770–1773, reel 85 (microfilm), Library of Virginia, Richmond, Virginia, xxx.

that other servants' complaints were not found baseless. As has been proven in a number of examples in other chapters, there were times when masters or servants were ordered to appear at the next meeting of the court, but never showed up, or at least failed to reappear in the court records. It is likely that the complaints of other servants—groundless or not—also did not get recorded because either they or their masters failed to appear at the next meeting of the court for the complaint be heard.[16]

Like those cases in which servants spoke on their own behalf regarding ill-usage by their masters, those cases involving parents, guardians, or next friends were often just as vague in describing a master's mistreatment. A next friend, while defined as a close friend or relative speaking or acting for an infant, a married woman, or someone incapable of speaking or acting for themselves, when used legally defines someone who appeared in court in place of a minor or otherwise incompetent person. Put more simply, a next friend was any person with an understanding of the law speaking in support of another to protect the rights of that person. Next friends were not guardians and sometimes appeared in court without the person for whom they spoke, but at other times the person—in this case, servants—were also present in court. What was clear in these cases was that the agreement made between the servant and his or her masters had been violated and that masters attempted to wrongfully assert their power over their temporary bonded white laborers. Bridgett Minitree complained of hardships used against her son by his master. John Jones, Minitree's son, had been bound out to learn the art of a tailor from a man named Gabriel Maupin, but Maupin, for reasons unknown, bound Jones to John Brooks of Williamsburg to learn the trade. It was Brooks who had failed to properly

[16] Thomas Hobday, York County, 1745: York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 387.

train Jones, but once before the court he promised to keep Jones and train him in the tailoring trade until the end of his contract. Despite his initial neglect and improper use of Jones, Brooks, like Richard Hill and Josiah Heath, merely had to tell the court that it would not continue, and he was able to keep Jones for the length of his indenture.[17]

It is not as though these masters had to prove that they stood by their word; instead, they just had to keep their servants and apprentices from complaining to the court for a second time. The charge made by Minitree in this case was to bring the mistreatment to the attention of the court justices, something that Jones might not have felt he could do without experiencing additional mistreatment or hardship. John Cooms, who bound two of his sons to Edmund Sweney, complained to the court in 1720 that Sweney failed to honor the contracts of his boys and that both remained in Sweney's household but were denied the opportunity to not only learn a trade but also to read and write.[18]

Next friends, parents, and guardians continued to complain to the courts on behalf of apprentices throughout the eighteenth century. In 1742 Thomas Kern and James Dixon accused Dimitries McCarty and Samuel Spurr of misuse. McCarty was accused of mistreating Kern's son, Alexander, and Spurr of failing

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[17] John Jones (also referred to as John Inco), York County, 1715: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 438, 446. The initial case regarding the hardships experienced by Jones was presented in August 1715, at that time, Bridgett Minitree was identified as Jones's mother. Gabriel Maupin was summoned to the next court to answer the accusations against him, and when the case was presented in September 1715, Minitree is referred to as Jones's (actually called John Inco) next friend. While there is a discrepancy in some of the details from one court to the next, the most important information—the mistreatment of an apprentice at the hands of his master and the support of a free person, whether a relative or a next friend, to report and end the ill-usage—remain intact from one case to the next.

[18] Sons of John Cooms, York County, 1720: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 584.

to properly use his apprentice Samuel Singleton. Upon complaint in the case of Alexander Kern, McCarty was summoned to the subsequent court, but Alexander was was returned to his household until that time. Samuel Spurr was also summoned to the to the next court and actually appeared, but upon hearing the evidence presented to them, to them, the justices believed that Spurr was treating Singleton as any apprentice should should be treated, and the case was dismissed. Ann Claxton, Elinor Dunn, and Tabitha Tabitha Wilkinson all appeared before the Accomack County courts between 1766 and 1772 to speak on behalf of their sons, all of whom had been bound as apprentices to masters in the county. According to their mothers, Claxton's son was being mistreated, Walter Dunn had not learned the agreed upon trade or been properly cared for while bound, and Lewis Wilkinson was being ill used. Of these three cases, only Ann Claxton's son was released from his service; the other two merely presented their complaints, which might have called for the masters of their sons to appear in the next court. Based on other cases similar to these, though, it is likely that Walter Dunn and Lewis Wilkinson would have been ordered back to the homes of their masters to serve out their indentures and that their masters promised the courts that they would properly train them as agreed upon in the initial contract.[19]

[19] Next Friend, *Oxford English Dictionary Online*, s.v. "next friend," accessed November 27, 2012, http://www.oed.com/view/Entry/126669?redirectedFrom=next+friend#eid34754655. See also Cornell University Law School, s.v. "next friend," accessed November 27, 2012, http://www.law.cornell.edu/wex/next_friend. Alexander Kern, York County, 1742: York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 98; Samuel Singleton, York County, 1742: York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 113, 121; Son of Ann Claxton, Accomack County, 1766: Accomack County Orders, 1765–1767, reel 83 (microfilm), Library of Virginia, Richmond, Virginia, 194; Walter Dunn, Accomack County, 1769: Accomack County Orders, 1768–1769, reel 84 (microfilm), Library of Virginia, Richmond, Virginia, 214; Lewis Wilkinson, Accomack County, 1772: Accomack County Orders, 1770–1773, reel 85 (microfilm), Library of Virginia, Richmond, Virginia, 374.

One reason some masters might have felt they could mistreat or misuse their young servants and apprentices was due to their youth. Masters might have believed that they held all of the power not only because their servants and apprentices were bound to serve them but also because they were young, and possibly naïve. This suggests, then, that masters most likely took advantage not only of their young servants' condition but also their age in hopes of using their apprentices as they wanted to and not necessarily teaching them the skills they were obligated to teach them by law.

It was not out of the question for servants of all kinds to have next friends, or in the case of apprentices, parents and guardians willing to speak on their behalf before the courts in cases of mistreatment and also in cases involving the denial of freedom dues (see chapter 5). With the support of free persons who in some cases were of equal social standing to the masters they accused of misuse, servants might have believed they were more likely to receive what was owed to them. Alternatively, having a parent, guardian, or next friend complain to the court might have been their only way to present their masters' misuse. Some servants were probably threatened or kept from making such complaints.

Parents speaking out against the mistreatment of their children, though, were probably not of equal social standing to most masters, having bound their children out as apprentices in order to give them an opportunity to learn a skill that would benefit them once they served out their contracts. Interestingly, the only two cases in which apprentices were dismissed from the service of their so-called abusive masters involved their parents as complainants. Hugh Norvell the

younger, bound to serve James Morris, complained to his father of the abuse and neglect of his master. The senior Norvell then complained to the court, stating that Morris not only mistreated Norvell but also failed to instruct him in the trade of carpentry. Norvell the younger was removed from Morris's care but was ordered to serve Henry Cary for the remainder of his indenture. During that remaining time, Cary promised to instruct Norvell in carpentry. The other successful case was that of the son of Ann Claxton during the late eighteenth century. He was removed from the service of William Clements in Accomack County after his mother complained to the court. The relative failure of many of the cases involving next friends and parents suggests that their appearance in court on behalf of servants did not necessarily sway the court to decide in the favor of the bound laborer. Their status as white free persons does not appear to have had any influence over the decisions of the court. What those parents and next friends might have done, as mentioned earlier, was report a case of misuse when the servants themselves were unable to, either because they were denied the opportunity by their masters or they were generally unaware of the process. That might have been a likely explanation for young apprentices who were more inclined to speak to their parents about their misuse than to a court of free, landholding whites, who themselves might have owned servants and slaves.[20]

Those masters appearing before the court for having mistreated their servants and violated their contracts asserted their power in a variety of ways. Some masters failed to provide their servants with food, clothing, or lodging, while others denied their

[20] Hugh Norvell the younger, York County, 1715: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 398, 413; Son of Ann Claxton, Accomack County, 1766: Accomack County Orders, 1765–1767, reel 83 (microfilm), Library of Virginia, Richmond, Virginia, 194.

apprentices the proper skilled training or the opportunity to learn to read and write. Masters, though, were obviously not restricted to enacting only one form of misuse on their servants; therefore, those servants who accused their masters of ill-usage and nothing more might have been abused physically or verbally as well, especially if they worked for masters or mistresses who were barely hanging on to their social status as lower or middling planters. Three York County apprentices appear to have experienced a multitude of misuses and even abuses at the hands of their masters in 1706, and there were surely more apprentices who suffered similarly.

Edward Powers and Charles Hansford, both apprentices of Peter Gibson, and Henry Powers, most likely the brother of Edward Powers and apprentice to a relative of Peter Gibson, Use Gibson, complained of their masters' ill-usage and abuse to the York County court during the early eighteenth century. Both Peter and Use Gibson had not only failed to teach them a trade but also abused them physically. Peter Gibson had bound Edward Powers and Charles Hansford as apprentices and based on their indenture, was to teach them the skills of a gunsmith. Instead, Gibson did not educate them in the trade, did not provide them with proper provisions, and also used what the courts would have defined as immoderate correction against them. Gibson, it seems, had left the gunsmithing trade and had become a tavern keeper and was probably making Powers and Hansford work at his inn. And while this might explain the reasons why the apprentices were not learning gunsmithing, it does not justify or explain his abusive actions toward them. Gibson was ordered to give up his apprentices, but

there was no indication that they would be transferred to another master who would actually teach them the skill they were contracted to learn. Edward Powers's brother, Henry Powers, was apprenticed to learn the trade of carpentry, but instead was treated in very similar ways to Edward and Charles Hansford: physically abused, in need of proper food, lodging, and clothing and never taught the skills of a carpenter. Henry Powers was released from Use Gibson's service without further questioning. In both of these cases the apprentices involved were mistreated in various ways. They, like many of the servants discussed previously, failed to learn the skill they were bound out to learn, but, according to their testimony, they were also misused, abused, and denied basic provisions. Both Peter and Use Gibson lost their apprentices because of this mistreatment, and it appears as though all three apprentices were set free and not contracted out to someone else. It is likely that these three boys were bound out either as orphans or because their parents were unable to provide for them, so they might have sought out other masters once they were released. But this probably depended on how long they had already been bound to Peter and Use Gibson, who most certainly did not view these boys as anything but bonded, exploitable labor. If they were bound without learning a skill for twelve years, like William Wardell, it is unlikely that they could become apprentices but would instead bind themselves out as servants, or attempt to survive as wage laborers in early Virginia. Ill-use, it seems, meant any number of things to those servants on whom it was enacted, but those servants who appeared before the courts were aware of their right to complain and attempted to gain some control over themselves and seek out the protection they were guaranteed to by law. Many, however, were not released from the service of their cruel masters.[21]

[21] Edward Powers and Charles Hansford, York County, 1706: York County Deeds, Orders, Wills, 1702–

Regardless of how servants were mistreated, these cases illustrate the willingness of masters to use their power both in society and within the household to intimidate their work force in order to get as much production as possible out of them while they were bound. These masters were not concerned with the temporary nature of their laborers' bondage or their whiteness. For some masters, they were bonded laborers free to be used however their masters saw fit. Unlike masters of slaves, who were permanently bound and often threatened with the whip, masters of servants were supposed to show a measure of control when disciplining their servants. This is proven by those laws that allow only moderate correction, in contrast to the laws regarding slaves in which masters and mistresses avoided punishment even if one of their slaves was "accidentally" killed. But some servants were corrected beyond what was set down in the law and were most likely abused more often than the court record suggests. The record does provide a few instances of master violence and abuse, but as is true with most of these cases, the entire story is unknown, since the transcripts most often only offer the series of events as laid out by the servant or master who complained to the court.

The severity of abuse that took place between masters and mistresses and their servants varied greatly from case to case. One servant may have been able to withstand harsher tongue-lashings or physical abuse than another; therefore, some more tender servants may have petitioned the court for redress for correction that in the eyes of the court might have been defined as moderate, and therefore

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1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 387; Henry Powers, York County, 1706: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 408.

acceptable. Other servant complaints, though, were taken more seriously by the courts, but only a small number of masters and mistresses lost their servants because of them.

The first of these cases in which a master or mistress's abuse seemed to have been taken more seriously by the courts involved female servants and their mistresses. Margrett Carvill complained to a court justice against her mistress, Elizabeth Baggaly. Carvill claimed to have been held beyond her term and abused and whipped until she bled. She feared for her life. Baggaly was summoned to answer the claims, but the warrant requesting her appearance was given to Carvill to deliver. Upon delivery, Carvill was beaten again by her mistress, who refused to appear in court. A second warrant was issued, and Baggaly appeared before a justice of the peace, but no decision was to be made until the next court, when several witnesses were also summoned to appear; no decision was recorded at the next court either.[22]

Another case, a year later, involved an apprentice, the apprentice's mother, and the mistress of the household to which the child was bound. Ann White appeared in the Accomack County court to complain against James Clarke and his wife for the mistreatment of her child. White had learned that her child was being abused and went to Clarke's home to confirm what she had heard and to check on her child. Upon arrival, Clarke's wife "did threaten [the] life" of White "by assaulting & running after [her] with a hoe." Needless to say, White was unable to check on the well-being of her child, but the violence enacted against her was most likely indication enough that her child was being abused by Mrs. James Clarke. The Accomack County court transcripts do not contain a reappearance of Mrs. Clarke in court to answer the charges against her. In the cases of

[22] Margrett Carvill, York County, 1705: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 41a, 42.

both Carvill and the child of Ann White, the violence against them was carried out by the mistress of the household. This was also the case in Thomas Hellier's account of his time on the plantation "Hard Labour" in late-seventeenth-century Charles City County.[23]

The violence of these mistresses might be explained in terms of power and powerlessness. Women were denied most freedoms in eighteenth-century society. Once married, they gave up all rights to any property they might have owned and left most of the decisions, both within the household and outside of it, to their husbands. This societal powerlessness might have made some women yearn for power and control over their households, even if in the eyes of the law the households in which they lived remained under their husband's control. Like the plantation mistresses discussed by Elizabeth Fox-Genovese, these women could assert their power over their white household servants, and, at times, their actions were worse than those of their husbands. But unlike mistresses who oversaw slaves, those with servants could not use their race *and* status to justify their actions; they could only use their status. Ultimately, though, their gender might have weakened the power they had over their bonded laborers as most servants, like slaves, were aware of who was truly in charge of the household: the master (if the mistress was married). Also, the levels of violence some mistresses used against their servants might have been used to rid them of that understanding and to prove to their white unfree laborers that they could be just as violent, if not more so, than their husbands. Because of this, some, like Elizabeth Baggaly and

[23] Child of Ann White, Accomack County, 1706: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 71a.

the wife of James Clarke, exerted their power over their bonded white laborers through violence, making sure that those laborers understood who was in charge, and despite laws against it, that servants were powerless against stopping the physical abuse. In short, mistresses acted and reacted in similar ways to their husbands and failed to find any common cause with their white servants. However, mistresses believed they had something to prove not only to the white servants who they abused but also the larger male-dominated society in which they lived.[24]

One complaint of physical abuse and violence was clear enough for the justices of the peace to remove a servant from their master's home. Mary Williams offered a complaint against both her master, Henry Bocock, and his wife, Mary Bocock, for some unknown misuse, and upon hearing the Bococks' defense of their actions, the court ordered that Williams be sold immediately and serve out the rest of her time—which was four months—with another master. While Williams's complaint might have addressed any number of ill uses, what makes her experience interesting is that the court decided to remove her from the home of her master even though she only had four more months to serve, and only a few servants were removed from their master's households for misuse.[25]

According to law, servants had every right to file complaints against their masters, and those masters who did not comply with the court's orders could lose their servants if

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[24] Elizabeth Fox-Genovese, *Within the Plantation Household: Black and White Women of the Old South* (Chapel Hill: University of North Carolina Press, 1988), 97. See also Snyder, *Brabbling Women*, Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs*; Terri L. Snyder, "'As If There Was not Master or Woman in the Land': Gender, Dependency, and Household Violence, 1646–1720" in *Over the Threshold: Intimate Violence in Early America* edited by Christine Daniels and Michael V. Kennedy (New York: Routledge, 1999), 219–36.

[25] Mary Williams, York County, 1721: York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 457.

a second complaint was made against them. There is no indication that this was Williams's second complaint, but it is probable that this was not the Bococks' before the court. The Bococks most likely had appeared in court to answer Mary Williams's complaints before, and having not changed their ways, were brought of the court a second time to defend themselves against Williams's claims. The of Williams because of mistreatment suggests that like Elizabeth Baggaly and Mrs. James Clarke, Henry and Mary Bocock were more interested in asserting their power over Williams than maintaining her service until the expiration of her contract. However, they also did not prevent Williams from enacting her own right to petition. In the absence of specifics regarding the ill-usage that took place in the Bocock household, what remains is a clear play for power, with Henry and Mary Bocock seeing what they could get away with in terms of how they treated their servant, and Mary Williams using the court to her advantage and exercising her right to petition against misuse.[26]

Another interesting facet of this case is that Williams accuses both Henry and Mary of misuse and not just one of them. Thomas Hellier did the same thing in accusing both Cutbeard and Mrs. Williamson of abuse, though, when in reality it was Mrs. Williamson, he claimed, who exacted the harshest treatment. Mary Bocock might have been the main source of abuse, asserting her power against one of the few people who had even less power than she did, but there is no way of knowing based on the evidence. Unfortunately, despite being mistreated in

[26] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section VIII, *Hening's Statutes at Large*, III, 448–49; Mary Williams, York County, 1721: York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 457.

some way, Williams's indenture was not truncated, and she was made to take her chances with another master for at least four months, unless something happened within that time to extend her indenture.[27]

Mistresses, though, were obviously not the only ones guilty of violence and abuse toward their female servants. Henry Selmon, master of Elizabeth Johnson, most likely an apprentice, was accused of "sundry beastly actions" by Johnson's father, Paule. Upon investigation the court found enough evidence to convict Selmon for "a very evil action" with Johnson, a girl of nine years old. And while the court had determined Selmon's guilt, they believed that the crime was of a capital nature and unable to be tried in a county court. Selmon, therefore, was transported to Williamsburg to stand trial. A number of witnesses claimed that they knew nothing of the egregious act other than what they had been told by Selmon's wife, Mary, but the transcript does not specify exactly what was said. Mary Selmon denied reporting any information to anyone. With no real testimony on which to base a decision, the court decided that there was not enough evidence to send Selmon before the General Court. Selmon was not sent to Williamsburg but was taken into custody until he posted a £40 bond—which was to guarantee his good behavior for one year. The court also ordered that Selmon "shall not cohabit with Elizabeth Johnson nor have any private conversation or communication with the said Elizabeth."[28]

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[27] Mary Williams, York County, 1721: York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 457.

[28] Elizabeth Johnson, Accomack County, 1710: Accomack County Orders, 1719–1724, reel 80 (microfilm), Library of Virginia, Richmond, Virginia, 8, 8a.

This case which clearly involved some sort of misuse, "beastly" misuse according to Johnson's father, ended with no more than what seems to be a mild scolding of Selmon. Although the initial report indicated that Selmon might be sent to Williamsburg to answer to the General Court for what appeared to be a criminal act, when no witnesses were willing to testify against Selmon, or give details about what went on between him and Johnson, he instead was made to pay a fine and not allowed to be alone with his servant girl. The General Court was established in Virginia in 1662, and unlike the county courts which were established for the "punishing of petty offenses," the General Court was seen as "as the supreme judicial unit of the colony"; therefore, even the suggestion that Henry Selmon would be sent to the public jail and tried in Williamsburg indicates the seriousness of his offense against his nine-year-old servant girl. Yet because no one came forward to confirm or deny, this offense was reconsidered and handled instead by the Accomack County court and considered a "petty offense." Elizabeth Johnson was not removed from Selmon's house but was made to serve her abusive master and live in fear that the abuse might happen again.[29]

Because of Elizabeth Johnson's age and the fact that it was her father, Paule, who issued the complaint, it stands to reason that Johnson was bound out to Selmon as an apprentice in order to not only serve him, but also to receive proper care and provision, to learn to read and write, and to learn a trade—opportunities that might not have been readily available to her had she remained with her father—the limits of the historical record in this case do not allow us to know if

[29] Rankin, *Criminal Trial Proceedings in the General Court of Virginia*, chapters 1 and 2 (first quotation on p. 8, second quotation on p. 44).

Paule Johnson removed his daughter from Selmon's home, or if he allowed her to serve out her indenture with the hopes that Selmon would honor the orders of the court and never be alone with Elizabeth. What is also clear is that Elizabeth, whether she was threatened with further abuse or not, reported the incident to her father, who was able to speak out against Selmon in court. Unfortunately, that is as far as it went, and Selmon, forty shillings poorer after paying to guarantee his good behavior, was allowed to keep Elizabeth Johnson in his service.

It is difficult to ignore the probability that Selmon's so-called evil and beastly acts were of a sexual nature, especially since the court ordered that he was not to be alone with the child for the remaining years of her indenture. Additionally, while servants complaining of ill-usage did not always get any more specific than that, other servants complaining of violence generally did provide more details, and the unwillingness of Johnson's father or the witnesses to provide any further information beyond making known the egregiousness of the act might suggest some sort of sexual assault. And while it is likely that some of the women forced to extend their time in bondage for having bastard children might have been sexually exploited by either their masters, fellow servants, or slaves, those cases focused more directly on the actions—consensual or not—of the female servant and not the man involved, but because this incident involved a young girl, it was the master who was called on to answer the claims and not Elizabeth.

A question remains, too, regarding the unwillingness of the eight witnesses, including Selmon's wife Mary, to speak out against Selmon's abusive behavior. All the witnesses claimed to know only what had been told to them by Mary Selmon, who then denied ever saying anything about her husband's actions. It is unclear if Mary attempted

to deny the information she had apparently relayed to the eight witnesses or if she refused to testify against her husband. The awareness of at least seven other Accomack County residents of what had happened in the Selmon household, along with the court's initial claim that Selmon should be tried before the General Court, all but confirms Selmon's violent or abusive actions toward Elizabeth Johnson. The silence of the witnesses, however, suggests either a loyalty to a friend or a powerful and influential member of the county that might have led to negative repercussions for those who spoke out against him. Regardless, the safety of a young girl belonging to a family that clearly did not have the means to provide for her did not motivate anyone to speak out against Selmon.

Servants sometimes employed next friends in cases of violence, similar to those servants who had a free person speak in their behalf for misuse or ill-usage. William Varnum—with the help of two next friends—took his complaints against his master before the York County court between 1712 and 1714. According to William Young and his wife, Elizabeth, Humphrey Nixon had not only treated his apprentice, William Varnum, in an evil manner, but also whipped him naked. And, according to Virginia law, no Christian servant was to be whipped naked. Additionally, Nixon failed to provide Varnum with sufficient food and did not pay him the forty shillings Varnum was owed for having been whipped. After the court heard the testimony of a number of witnesses, including William and Elizabeth Young, Bernard Cowdart and his wife, who spoke in behalf of Varnum, and John Dozwell Junior, who testified in support of Nixon, the court decided in favor of Nixon and returned Varnum to his service, despite evidence of the

lashings Varnum had received. While no information is offered regarding the witnesses' testimony or the occupations of the William Young, Bernard Cowdart, or John Dozwell Jr., Dozwell appears in the historical record on several occasions for various dealings with a servant woman named Alice Two; whereas Young and Cowdart only appear in relation to William Varnum's case. Alice Two was sold to John Dozwell Jr. in 1703, and by 1705 Dozwell was in court reporting the escape of Two from his service. Two, who was returned to him after having attempted to escape, and apparently being found to have no more time to serve, appeared in court several months later for fornication. She was then ordered by the court to extend her service to Dozwell Jr. even further but was found to no longer live in the colony. Dozwell Jr. also appeared in court between 1710 and 1711 seeking payment for having returned a runaway servant, John Price, to the service of his master.[30]

It appears as though, despite clear evidence against Humphrey Nixon—the lashings he gave to Varnum, which were illegal—the court still decided in his favor and returned his apprentice to his service without too much hesitation. Varnum had four people in court to speak in his behalf, but their testimonies did nothing to sway the court. John Dozwell Jr., though, who was present in support of Nixon and himself a master to at least one servant, might have been able to convince the court to decide in Nixon's favor. Although it is difficult to prove, Dozwell's presence in the court record both before and after the Varnum case might suggest a familiarity with the court and even the justices of

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[30] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section VII, *Hening's Statutes at Large*, III, 448; William Varnum, York County, 1712–1714: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 191, 205; Alice Two, York County, 1703, 1705: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 150, 168, 319, 347; John Price, York County, 1710–1711: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 38.

the peace who made the ultimate decision regarding the treatment of Varnum. This case most certainly was one in which custom was the order of the day, as Nixon was not even required to pay a fine for having whipped his white Christian apprentice. And while it is possible that Nixon was not guilty of whipping Varnum and that Varnum appeared before the court in hopes of being released before the end of his contract, Varnum did have bear the scars from the whipping. This case ended as many of the other cases in which servants complained against their masters, either with or without the support of next friends: with those servants returning to the households of their masters to serve out their terms. Neither Varnum's whiteness nor his religion nor his ability to complain to the courts about this master's abuse protected him from the violence used against him by his more well-positioned and powerful master.

As evidenced in the cases of both Elizabeth Johnson and William Varnum, these apprentices did not receive treatment much different from other servants. Johnson and Varnum were both abused and mistreated by their masters, and while they did have either parents or witnesses willing to speak out against their ill-treatment, the courts decided in the favor of their masters. This might have been because the court saw the value in teaching Johnson and Varnum valuable skills, but, more plausibly, they decided in favor of masters with whom they had more in common in terms of social standing and power within the community. Clearly, status and condition trumped race in these matters. Elizabeth Johnson, Henry Selmon, William Varnum, and Humphrey Nixon were all white; Selmon and Nixon, though, were better positioned in Accomack and York counties and

therefore had the upper hand. That they were not and never had been bound, even temporarily, also worked in their favor. But these masters who treated both of their servants so poorly appear to have had no allegiance or loyalty to these bound laborers based on their whiteness. The apprentices were contracted to perform specific tasks and possibly learn a trade, but this was not necessarily because Selmon and Nixon believed they had something in common with either Johnson or Varnum but rather because they needed an apprentice or servant within the household to perform specific—often menial—tasks.

Not all masters, though, were looked on kindly by the courts, possibly because they had been before the courts on previous occasions concerning other cases of speculated misuse. Ann Carter, a servant, was beaten and abused by her master, Robert Hide, but complained to someone else, Henry Tyler, a churchwarden and also a next friend, who then presented Ann Carter's claim before the York County court. Being a churchwarden, it is likely that Tyler had several friends or acquaintances serving on the court. According to Tyler, Carter was not only beaten harshly but also made to perform household duties such as washing and scouring on Sundays. After hearing of Carter's misuse and abuse, Tyler told her to appear in court to testify against Hide, but she never appeared in court. The court then suspected that Hide had kept Carter from testifying against him and most likely did so through violence or threats of violence. The sheriff was to take Carter into his custody so that she would be able to appear at the next court, but the case never came before the court again.[31]

[31] Ann Carter, York County, 1712–1714: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 187.

Robert Hide, Carter's master, is probably the same Robert Hide who appeared for having failed to pay James Morris and Morris's servant, Job Hall, for carpentry work just a few years earlier. In that case Morris claimed Hide owed him money for work performed over the course of thirty-five days. Hide appeared to answer the claim and told the court that he never agreed to employ Morris or his servant and they performed no work for him. In that case he was identified as Robert Hyde. The appearance of Hide before the court for two separate dealings with two different servants and one free person might suggest that Hide assumed that his position in society, above that of Ann Carter and Job Hall, both servants, and James Morris, a free skilled laborer, was one from which he could assert power and dominance either through a manipulation of a work contract or through violence. Unfortunately, neither case continued beyond the first presentment of information, but the accusations against Hide for violence, in addition to Carter's failure to appear at court to confirm them, suggests that the court was almost certain of Hide's abuse and that Hide hoped to avoid punishment for treatment he may have believed was within his rights to use on his unfree servant. And the fact that Hide might have believed that the use of physical abuse on his white servants was acceptable might suggest that he considered those servants much like slaves and so saw no common bond between them and him. He was free and they were not; therefore he treated them based on their condition.[32]

Cases in which servants complained against their masters for physical violence and abuse are scarce compared to those servants willing to go before the

[32] Robert Hide (master), York County, 1708–1710: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 73–74.

court to petition for freedom dues or other provisions that were rightfully theirs. And that most of these servants were either returned to serve out their terms or disappeared from the historical record might suggest that far more servants were treated in similar, if not worse, ways but felt their complaints would fall on the deaf ears of the court justices, who most likely shared much in common with their abusive masters. Or, such servants may have been prevented from making such a complaint. Despite the lack of evidence of overt servant abuse, there is even less evidence for those instances in which a servant was killed at the hands of his or her master. Again, the absence of these cases does not indicate that servants did not die while bound but more likely that masters were able to avoid the courts after such things occurred. This in no way suggests a racial harmony or solidarity between masters and their white laborers but instead might indicate the unwillingness of masters to deal with the courts in cases where their white servants died from anything but illness or natural causes. Although masters most often received the benefit of the doubt and could probably argue self-defense, many most likely did not enact deathly violence when other forms of violence, or even the mere threat of abuse, was just as successful. Plus, by not killing their servants they were able to exploit them and manipulate them for the duration of their contracts, and, depending on the servant, might have gained even more time if their servant became pregnant or attempted to run away.

The penalty for murder in colonial Virginia was death, and it was an unpardonable offense. But because there were ways to lessen most charges, those convicted of some sort of manslaughter—instead of homicide—gained the benefit of clergy, which meant that they were exempt from “the jurisdiction or sentence of the

ordinary courts of law." These lesser forms included "justifiable homicide, homicide by misadventure, [and] homicide in self-defense." Justifiable homicide was defined as "the killing of a man in obedience to law, or by unavoidable necessity, or for the prevention of an atrocious crime." Homicide by misadventure included accidental deaths "with or without the involvement of an (innocent) second party." And homicide in self-defense meant that whoever committed the crime did so in protection of him or herself and unintentionally killed their attacker.[33]

The deaths of two servants were recorded in the court records of Accomack County and Augusta County during the eighteenth century, the first in 1700 and the second in 1774. The master and mistress cited in the first servant death also appeared in court five years later for the severe and brutal abuse of another servant within their household; therefore, despite already discussing violence, beatings, and abuse that did not end in death, to talk about a record of violence in one particular household proves most effective here. The dearth of evidence regarding servant deaths does not necessarily illustrate that this was an uncommon occurrence. Due to many of the servant experiences already discussed, and those instances in which masters attempted to keep their servants in bondage well after the expiration of their contracts, it can be assumed with some degree of

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[33] Benefit of Clergy, *Oxford English Dictionary Online*, s.v. "benefit of clergy," accessed February 6, 2013, http://www.oed.com/view/Entry/17694?rskey=BPgXle&result=1&isAdvanced=false#eid23477500 (first quotation); Hugh F. Rankin, *Criminal Trial Proceedings in the General Court of Colonial Virginia* (Charlottesville: University of Virginia Press, 1965), 204–15 (second quotation on p. 205); Justifiable Homicide, *Oxford English Dictionary Online*, s.v. "justifiable homicide," accessed February 6, 2013, http://www.oed.com/view/Entry/87957?redirectedFrom=justifiable+homicide#eid1497016 (third quotation); Homicide by Misadventure, *Oxford English Dictionary Online*, s.v. "homicide by misadventure," accessed February 6, 2013, http://www.oed.com/view/Entry/119151?redirectedFrom=homicide+by+misadventure#eid36613530 (fourth quotation).

confidence that many more than two servants died at the hands of their masters during the eighteenth century, especially in cases where masters owned both servants and slaves. Masters might have treated their bonded laborers in similar ways, which means that some servants might have lived with the threat of overt physical violence on a daily basis. This also suggests a master's disregard for race as something that unified him with his servants and a justification of this treatment based on the unfree status of his servants and not their whiteness. Because these two cases occurred at very different times during the century—one early and one late—this suggests that the views of some masters toward their white servants did not change significantly as reliance on African slaves became more widespread. That is, the rise of African slavery in Virginia did not bind all whites together in a sort of white democracy. White servants were still treated based on their bonded condition and were often powerless against their property-owning, socially superior masters.

The first servant, an unnamed woman, died at the hands of her mistress, the wife of Captain George Parker. The news of the servant woman's death was reported to the court by a number of unnamed witnesses who claimed that she died due to the "unreasonable correction given her by her mistress." The court ordered eleven people to appear in court the next day, two of whom were woman servants who also lived in the Parker household. If the case of Elizabeth Johnson (the apprentice of Henry Selmon who "committed sundry beastly actions" against her) is any indication as to how cases with witnesses were generally decided, the witnesses' testimonies, whatever they entailed, would not have swayed the court from its decision. Unfortunately, neither the wife of George Parker nor the eleven called witnesses appear in the next day's court transcripts.

The two women servants who remained in the household, though, most likely received similar treatment to the woman who was killed; therefore, they might have been kept from appearing had the case persisted. And it might have been one of those two women that brought George Parker and his wife back to court for severe abuse in 1705.[34]

In this second case involving George Parker and his wife Ann, Elizabeth Steven accused both George Parker and his wife of "severe and unreasonable correction contrary to law." The Parkers were summoned to court and asked to speak to the allegations against them. It is quite likely that the court as well as the some of the others present in court were aware that a servant woman had died at the hands of Ann Parker only five years earlier. John Wise and his wife were called as witnesses to speak on behalf of Steven. In the 1700 case, several members of the Wise family were asked to speak out, including William Wise, his wife, and daughter as well as Johannes Wise (possibly John in this second case) and his wife. But because that case never materialized beyond the Parker's first appearance, the outcome of the case is unclear. What we do know, though, is that servant women remained in the household, despite Ann having killed a woman through "unreasonable correction." Both John Wise and his wife testified "that they saw ye said Elizabeth's back which appeared to them that she had been severely whipped stark naked, and . . . that Mrs. An[n[ Parker did confess that she did whip her 29 or 39 lashes." On the basis of evidence of the lashings in this

[34] Unnamed servant woman, Accomack County, 1700: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 103 (first quotation); Elizabeth Johnson, Accomack County, 1710: Accomack County Orders, 1710–1714, reel 80 (microfilm), Library of Virginia, Richmond, Virginia, 8, 8a (second quotation on p. 8).

case, unlike that of apprentice William Varnum who was not given the forty shillings he was owed according to the law, the court ordered Parker to pay Steven forty shillings, but like William Varnum, she was ordered back to the Parker household to serve out her contract. Despite returning her to the Parker's care, if Steven did anything in which some sort of correction was warranted, Parker was to bring her before the court justices before laying hands on her. The end of the record also states that Steven was to be given all of her clothes to keep in her possession. This suggests that she did not have open access to her provisions before coming before the court, which might have been part of the hardship and mistreatment she experienced at the hands of both George and Ann Parker.[35]

These early cases of violence that resulted in the death of one servant and the brutal whipping of another occurred in the same household over the course of five years. It is likely that Elizabeth Steven endured other forms of abuse, but that with the testimony and support of the Wises she decided to complain to the court regarding the violence of Ann Parker. As stated in the 1700 case, there were two women servants who were supposed to testify the next day, Elizabeth Steven was probably one of them, the other either was not abused—which seems unlikely based on the available evidence—or was kept from complaining after Steven brought them before the court in 1705. The Parker household was a violent household and the only one in which there is existing evidence of multiple instances of violence and the attempts of a master and mistress to assert their dominance and demand obedience through harsh physical violence and whipping of their

[35] Elizabeth Steven, Accomack County, 1705: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 113a (first quotation, third quotation); unnamed servant woman, Accomack County, 1700: Accomack County Orders, 1697–1703, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 103 (second quotation).

white female servants. While it cannot be confirmed, it is plausible that Steven, who never appears in the historical record again, was kept from doing so either due to more abuse, which could have resulted in her death, or possibly because she ran away in order to avoid further mistreatment. Both of these cases involving George and Ann Parker occurred in the early eighteenth century in Accomack County; the second case that resulted in the death of a servant happened in the later decades of the century in Augusta County.

William Givans was taken into custody by the county court for the murder of James Brown, his servant, in 1774. Givans actually appeared in court but denied the claims against him. After the testimony of several witnesses, it was decided that Givans had acted in self-defense against Brown and, therefore, was acquitted of the murder." With no record of the actual testimony, and James Brown having been killed in whatever altercation that occurred, it is likely that most of the witnesses appeared to speak in Givans's behalf and not against him. Givans most certainly could have killed Brown in self-defense, but Brown was probably provoked in some way or mistreated over a period of time and found that he could no longer endure the abuse. The death of Brown, a servant, was serious enough for the court to summon witnesses, but not serious enough to look beyond the testimonies they received to inquire if there was a reason Givans would have had to act to defend himself. Givans, then, was pardoned for the death of his servant and with the support of several witnesses as well as the Augusta County court, returned to his household fully exonerated for his crime.[36]

[36] James Brown, Augusta County, 1774: Augusta County Order Book, 1773–1774, 15, reel 66 (microfilm), Library of Virginia, Richmond, Virginia, 310–12, 319.

Like the story of Thomas Hellier from Charles City County during the late seventeenth century, some servants did exact violence on their masters, but it is likely likely that servant violence was in reaction to some form of mistreatment or ill-usage by their masters or mistresses. This violence may have been used in order to protect themselves, or, as an act of resistance. But like all cases of violence, there are very few that were actually documented. Other, more common forms of nonviolent resistance, like running away and theft—usually in conjunction with running away—will be discussed in the next chapter.

Unlike other laws regarding servants and slaves that carried over from the seventeenth to the eighteenth century, the first mention of servant resistance, meaning a servants' refusal to perform their duties or physical or violent actions toward their masters, did not appear in the law codes of Virginia until 1705 when the first comprehensive law concerning servants and slaves was enacted. This resistance did not include running away. Laws dealing with runaways and those who encountered them were developed early in the seventeenth century and continued into the eighteenth with small changes and amendments being made every few years; they were also quite lengthy. But the punishment for resistant servants whose masters chose to present them before the courts, was an additional year of service for every offence. It is unclear as to why laws regarding resistance did not appear before 1705, although, the arguments regarding the small number of masters—two, according to my research—who brought their servants before the court for violence might suggest an answer: most masters most likely dealt with resistance from their servants away from the courts as to not only avoid humiliation or embarrassment for having been, even for a moment, physically dominated

or powerless against their bonded laborer but also to be able to retaliate in much the same manner and then keep their servants from complaining to the court regarding mistreatment.[37]

One of the first cases documenting servant violence toward a master occurred in York County in 1715. John Watson was accused of beating and injuring his master, David Cunningham. Because Watson was not brought to court for Cunningham's petition, the justices of the peace ordered he be taken into custody and appear to answer the charges against him. Several months later, Watson was found guilty of assaulting and injuring his master and was ordered to serve Cunningham for an additional year after the expiration of his indenture. While it is unclear whether or not Cunningham retaliated when Watson hit him, or if Watson hit him in reaction to abuse he received, Cunningham did not seem to think his own life was in danger by keeping Watson on as a servant. And because he reported Watson's violent behavior to the court justices, he gained an additional year of service for something that could have been an isolated event, or the one time that Watson reacted to his master's abuse. Cunningham, in this case, was not embarrassed or hesitant to report the abuse, even though Watson's violence toward him might have been perceived as an affront to Cunningham's power. By admitting to the altercation, Cunningham was able to extend Watson's bondage, which was to Cunningham's benefit. He gained an extra year of labor from his white servant. John Sadler experienced the same fate as John Watson

[37] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XIV, *Hening's Statutes at Large*, III, 451; "An Act Concerning Servants and Slaves (1748)," Chapter XIV, Section XI, *Hening's Statutes at Large*, V, 551; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section XI, *Hening's Statutes at Large*, VI, 360.

several years later when he was presented before the court for having struck his master Joseph Mountfort, and ordered to serve twelve months extra time.[38]

These two cases are the only accounts of servant violence toward a master that appear in the court record. As previously stated regarding the small number of cases regarding master ill-usage and violence, this small number does not mean that other servants did not lash out or violently resist their condition or the harsh treatment of their masters, but that masters were probably less likely to present these altercations to the court, although, if these two cases are any indication, masters would receive an additional year of service from their disobedient servants, and therefore would have benefited from bringing their servants before the justices of the peace. Power and their reputation, however, were probably more important, as the court justices and others inside the courthouse were most likely better positioned in society than some of those masters who owned servants. By handling the violence or misconduct within the household, masters spared themselves what they might have believed to be a black mark on their reputation or social standing, and, if considered a bit differently, put them—at least in their own minds—on more equal footing with their slaveholding counterparts who also handled acts of resistance and violence within their own households and did not present them before any court.

What cannot be forgotten from the opening story of Thomas Hellier is that not only did he kill his master and mistress but also a female servant who worked in the Williamson household. Hellier claimed that had she not come back into the room to

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[38] John Watson, York County, 1715: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 446, 457; John Sadler, York County, 1721: York County Deeds, Wills, and Inventories, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 80.

protect her mistress he would have left her alone, but when she attempted to stop him from killing Mrs. Williamson, he said he had no choice but to kill her, too. This servant-servant violence is a bit different than what probably went on in households that had more than one servant or both servants and slaves, and cases of servant-servant and servant-slave collusion are much more prominent than cases of tension or animosity between servants or servants and slaves. One case, however, does illustrate violence between bonded laborers, and it resulted in death. What makes this case most interesting is the role that both race and status played in the final decision to pardon Abigail Briggs.

In October 1764 Abigail Briggs, identified as a "Free Indian" in the Accomack County court record, was accused "of murdering Dick, a Negro Man Slave belonging to Martha Sturges." Briggs proclaimed her innocence before the court, but was found guilty of murder and ordered into custody to be transported to Williamsburg to stand trial. Despite Briggs being referred to as "free" in the court documents, Francis Fauquier, Lieutenant Governor of Virginia, in a letter to the Board of Trade, identified Briggs and Dick as "fellow Servants in the same house." While the word "servant" was often used to describe both servants and slaves, the fact that Briggs had initially been identified as free and then as a servant by Fauquier suggests that she was most likely a servant in Martha Sturges's household. Another possibility, of course, is that she was a wage-earning domestic servant who worked for Sturges during the day, but as an Indian woman this is less likely. According to Fauquier, who was present at the trial, both Briggs and Dick were in the kitchen when "a Quarrel ensued and blows given." Martha Sturges, the mistress, arrived in the kitchen and found Dick dead, "knocked on the head with the

pestle of a Mortar which was of Wood" which had been taken up by Briggs "to defend herself against the Assault of her fellow Servant." By August 1765 Briggs had been transported to Williamsburg but had still not been tried, and Fauquier interceded on Briggs's behalf, stating that Dick had had "the Character of being quarrelsome" and Briggs "of being a quiet woman." He also suggested that the fall onto the stone floor of the kitchen may have killed Dick, and not the blow to the head. "[H]ad [Briggs] been a white woman," Fauquier stated, "the Jury would have altered their Verdict to that of Manslaughter." Briggs was found guilty of murder in April 1765, but the Lieutenant Governor persisted and on October 10, 1765, she was pardoned.[39]

Questions remain regarding the attack and Briggs's response to it, but Fauquier seemed to think her reaction to Dick was warranted due to his "quarrelsome" nature. Briggs's status is also up for debate. The court records and Fauquier's papers make clear that she was an Indian woman, but she was referred to as "free" by the Accomack County court and a servant by Fauquier—and in the official pardon by the Board of Trade. Dick was also identified as a servant, although he was most likely a slave. Briggs, then, could have been a slave, but the court's recognition of her free status and the use of her full name makes that unlikely. Her status as a servant is more plausible. Briggs was clearly performing servant's work for the Sturges family and doing so alongside slaves, and despite the court's reference, was not completely free.

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[39]Abigail Briggs, Accomack County, 1764: Accomack County Orders, 1764–1765, reel 83 (microfilm), Library of Virginia, Richmond, Virginia, 240. For Francis Fauquier's involvement in this case, see Francis Fauquier, *The Official Papers of Francis Fauquier, Lieutenant Governor of Virginia, 1758–1768*, edited by George Reese (3 vols.; Charlottesville: University of Virginia Press, 1980–1983), III. Quotations in Fauquier to the Board of Trade, August 1, 1765, *Official Papers of Francis Fauquier*, III, 1267. See also Board of Trade to Fauquier, November 8, 1765, *Official Papers of Francis Fauquier*, III, 1302–3 and Warrant for Pardon, October 10, 1765, *Official Papers of Francis Fauquier*, III, 1304.

Abigail Briggs's case is unique for many reasons. First, it is one of the few that appears in the historical record regarding violence between a servant and a slave. Second, there was clearly a racial element involved in the Accomack County court's initial decision, as Fauquier points out that had Briggs been white, the conviction would have been reduced to manslaughter. Therefore, in this case, unlike any others, race played a role in the court's decision. It is likely that a racial element existed because the violence that took place was between two bonded laborers. Briggs most likely was acting in self defense and attempting to fend off Dick's advances when she killed him. Another possibility is that unlike those servants and slaves who worked together to escape their bondage, Briggs may have felt that she was different from Dick because of her Indian heritage and the temporariness of her bonded condition.

Whether the color of her skin automatically demoted her to servile status in the eyes of the law or she actually worked as a servant, Abigail Briggs was not a free woman, by any means. She did much the same work as domestic slaves within the Sturges household and ended up before the court because of a violent encounter with one of them. Initially she was convicted of a felony and was only pardoned when the Lieutenant Governor intervened. This was a rare case but one in which Briggs's status as either a servant or a free Indian gained her access to some small amount of freedom, while her ethnicity kept her bound. Only with the help of Francis Fauquier was Briggs able to access some sort of freedom. Most servants were unable to experience small moments of freedom without the help of their masters and others were, instead, regularly reminded of their servile condition due to mistreatment by their masters and mistresses. So, unlike other cases in which masters considered the condition of their servants over the color of

their skin, and doled out punishments and mistreatments accordingly, Lieutenant Governor Fauquier considered race over condition in this case. He might have also considered condition, but instead of comparing her unfreedom to his or the freedom of the master class, he considered Briggs's temporary bondage to Dick's permanent bondage. Regardless of what parameters he considered, Briggs was pardoned of her violent crime. This account does not take away from the fact that for many masters condition trumped race when dealing with their servants, because this case is unique. There is not a white servant involved, but instead an Indian servant and a black slave. And it cannot even be known if Briggs killed Dick in self-defense, out of animosity she had toward him, or if he in fact was killed from hitting his head on the floor. What this case does suggest, though, is that the violence that took place in Virginia households was not always only between masters and their servants and slaves, but that there were occasions when servants and slaves attempted to exert power and control over each other either through violence, or in other cases like those discussed in chapter 2, through sexual advances. In cases of violence, however, masters most likely took care of those altercations within the household instead of bringing their bonded laborers before the court. Had they brought them before the court, they might have lost a servant to another master, and they would have to spend money on the court costs required for having appeared. It was therefore more reasonable for masters to deal with violence or tension between their servants or their servants and slaves outside of the courtroom, and who is to know if condition or race won out in these cases.

The right of servants to complain against their masters before the court clearly separated them from permanently bound laborers who had no such right, but this right

rarely won them anything other than an appearance in court and quite possibly the ire of their masters for presenting them as abusive or, at the very least, manipulative and willing to exploit their servants despite laws that warned against it. In these cases it is clear that servants were not mistreated and abused because of their race but because of their class or status, their condition as servants, and in some cases because of their gender. Interestingly, in the almost twenty cases of misuse that did not include obvious claims of violence and instead spoke of the failure of an apprentice to learn a specific trade, or a lack or failure to be provided with provisions, all but two of those cases involved male servants or apprentices. Only two women complained of ill-usage; one was Sarah Hall, who was temporarily removed from her master's household, and the other was Betty Barber, whose case against her master did not go beyond the initial appearance in court, which suggests that she most likely was returned to her master to serve out her remaining time. Those cases that presented clear physical abuse, of which there were less than ten, involved at least six females, with a possible seventh, but it is unclear if Ann White, who complained to the court regarding her child and the abuse of Mrs. James Clarke, spoke in behalf of a son or a daughter. Because the abuse was coming from the mistress of the household, though, this might suggest the servant was a girl. And out of these nine cases of violence, the abuse was imposed by mistresses in five of them, and all of their victims were women. Mistresses, then, were asserting the little power they had within the household over their servants, one of the only groups over which they could justify having any sort of control. Masters acted in similar ways, although their assertion of

power and exploitation of their servant workforce appears to have come before the courts as misuse and not violence; those servants who experienced violence and abuse at the hands of their masters most likely never made it before the court.

Those small planters and landowners who employed servants in their households and on their land assumed the role of master over these temporarily unfree workers. For them, the color of their servants' skin and the temporality of their bondage did not make white servants any less exploitable as a workforce than the enslaved Africans, and in some cases, these servants were all that some masters could afford; therefore, in a sense, they in effect became their masters' slaves well into the eighteenth century. There was no racial solidarity between white masters and their white servants; instead, some white masters and mistresses hoped to gain acceptance by the planter elite of colonial Virginia—some of whom also owned servants who worked alongside their slaves—and believed that by employing unfree labor, they were one step closer to social equality, or at least acceptance, by this small and powerful group.

Despite the relatively limited evidence regarding servant ill-usage and abuse, the violence known to be used against the enslaved suggests that more servants experienced mistreatment than those who made it before the court either on their own volition or with the help of a next friend. The large number of servants who attempted to escape their bondage through less violent means, like theft and running away, indicate that even four years (for some) was too long to remain a servant, so like some of their permanently bound counterparts, they attempted to escape their servitude instead of trying to endure it.

# CHAPTER 4
# RUNAWAYS AND RESISTANCE: FIGHTING BACK AGAINST THEIR MASTERS AND THEIR CONDITION

Throughout the eighteenth century the Virginia *Gazette* (and many other newspapers) posted ads announcing the escape of servants and slaves from their masters. While the information in these ads varied, their form and function were the same whether they announced the escape of a black slave or a white servant. Take, for example, these two ads published in 1745. The first announced the escape of two slaves:

> RAN away from the Subscriber's Plantation in King & Queen County, on the 27th of last Month, Two Negro Men, viz, one named Cuffey, a lusty well-set Fellow, speaks good English, and had on when he went away a Cotton Jacket & Breeches, &c, the other named Bacchus, a young squat Fellow, speaks good English: They have both been used to the House, and are cunning subtle Fellows; and are suppos'd to be gone towards Williamsburg or Norfolk, where they came from. Whoever brings the said Runaways or either of them to me in the aforesaid County, shall have a Pistole Reward for each and all reasonable Charges, besides what the Law allows, paid by Alice Needler.[1]

And the second called for the return of a servant:

> RAN away from the Subscriber, while in Williamsburg, last General Court, a Servant Man, named Thomas Page, by Trade a Barber and Wig-maker; he is a middle-siz'd, thin-bodied Fellow; When any Questions are ask'd him he makes quick Answers, mostly with a Smile and Bow; liv'd most of his Time in London; is very much given to Drink; had on, when he went away, a light colour'd Fustian Coat, Vest and Breeches, the Breeches new, with flat, yellow Metal Buttons, Country-made Stockings and Shoes, with Buckles in them, a white Shirt, black Silk Band, a little old brown bob Wig, and old New-England Beaver Hat, much wore, lost its Colour; he struts and swaggers very much in his Walk, and had an old Case with 3 very good Razors in it. Whoever takes up the said Servant, and delivers him to a Constable, on a Certificate from any Justice of Peace of his being in Custody, shall have a Pistole Reward, besides what the

[1] Cuffey and Bacchus, 1745: Williamsburg Virginia *Gazette* (Parks), March 14–March 21, 1745; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=rg45.xml&adId=v1745030046.

> Law allows, paid by Mr. James Crosby, Merchant, in Williamsburg, or the Subscriber, at Cherry-Point, in Northumberland County. William Taite.[2]

Both of these ads provide detailed information regarding not only the appearance of the bonded laborers but also their skills and inclinations. Cuffey and Bacchus seem to have been used as domestic slaves, and Page was trained as a barber and wig-maker, although it is unclear if he was used in that capacity by his master. Cuffey and Bacchus were also described as "cunning" and "subtle" and Page as giving quick answers with "a Smile and a Bow." Page also swaggered when he walked. The issuers of both of these ads were offering a reward of one pistole for the return of these men. A pistole, a Spanish coin that remained in use in Virginia during the eighteenth century, was equal in value to approximately 18 shillings, which was two shillings shy of one pound.[3]

Thomas Page, Cuffey, and Bacchus were all valuable to their masters because the work they performed brought their masters and mistresses profit. Hence neither Alice Needler nor William Taite were willing to let them escape their bondage or the term of their contract, or let them think that they actually had control over their own lives. And when compared, there are certainly more similarities between these two ads than differences. Servants and slaves, it appears, were described in much the same way by their masters and valued in a similar way both monetarily—one pistole in these two cases—and otherwise.

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[2] Thomas Page, 1745: Williamsburg Virginia *Gazette* (Parks), November 14–November 21, 1745; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg45.xml&adId=v1745111398.

[3] Pistole, *Oxford English Dictionary Online*, s.v. "Pistole," accessed March 6, 2013, http://www.oed.com/view/Entry/144649?redirectedFrom=pistole#eid and http://www2.vcdh.virginia.edu/gos/currency.html. Quotations from the runaway ads on p. 1; David Walbert, "The Value of Money in Colonial America." LEARN North Carolina. Available on the Web at http://www.learnnc.org/lp/editions/nchist-colonial/1646 (accessed March 18, 2013).

If Page, Cuffey, and Bacchus were compelled to run away in the first place, it is probable that they were being mistreated and even abused by their masters, which, under law, was acceptable when dealing with slaves but not necessarily with servants. It is possible, however, that masters like William Taite did not much care about the temporality of their servant's contracts or the color of their skin; for some owners, servants were laborers to be exploited, not eventual free persons; therefore the motivations of those servants who ran away were most likely very similar to those slaves who did the same. Running away was not only a non-violent act of resistance toward their more powerful masters but also an opportunity for the servants to have control over their own fates at least for a time. They took a stand both against their masters and for themselves in running away to gain their freedom, even if they did risk being taken up, returned to their masters, and having their terms extended.

Scholars have studied slave resistance between the seventeenth and nineteenth centuries and suggested that the enslaved resisted both passively and actively against their bonded condition, the unreasonable demands of their masters, and the abuse, exploitation, and mistreatment they regularly endured. It is likely that servants resisted for many of the same reasons. Both permanently and temporarily bound laborers desired freedom or at least some control over their lives. To gain this control, slaves often slowed their work, broke tools, or feigned ignorance and even illness. Servants might have acted in similar ways, but because of the lack of firsthand accounts written by servants, the available sources—runaway ads and court transcripts, both written by the master class—often present the more active forms of resistance, whether violence, theft, or fleeing their masters' households. Servants worked both alone and in concert with others to resist their

masters and their condition, and their reasons for resisting, which most often meant fleeing, probably included a number of motivations, including an unwillingness or an inability to formally complain against their master before the county court due to ill-usage or mistreatment, exploitation, violence, or being held beyond their term. It is also possible that white servants believed that based on the color of their skin they should not have been mistreated or exploited. Those servants who voluntarily entered servitude did so because of its temporality and their hope that once they served their time, their ingratiation and acceptance in Virginia society as free persons would be relatively easy. This, however, was not the case. Their masters did not view them as future or even potential free persons but instead as a temporary exploitable labor source to be used however their masters saw fit. So in many cases servants—including indentured, customary, and convict servants, locally bound servants, and even some apprentices) were treated much like slaves, and as illustrated in the runaway ads of Thomas Page, Cuffey, and Bacchus, they were described and valued similarly as well.[4]

Servants, like slaves, found ways to resist their condition as well as the mistreatment, exploitation, and manipulation sometimes used against them by their white masters. In a society thought to be divided along the lines of black bondage and white freedom, some servants—many of whom were white and all unfree—employed tactics

[4] For work on slave resistance see John Hope Franklin and Loren Schweninger, *Runaway Slaves: Rebels on the Plantation* (New York: Oxford University Press, 1999); Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Pantheon Books, 1974). 648–57; Stephanie M. H. Camp, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South* (Chapel Hill: University of North Carolina Press, 2004); Lathan A. Windley, comp., *Runaway Slave Advertisements: A Documentary History from the 1730s to 1790* (3 vols., Westport, Conn., Greenwood Press, 1983), I. For work on servant runaway ads and the runaways themselves see Daniel Meaders, *Dead or Alive: Fugitive Slaves and White Indentured Servants before 1830* (New York, Garland Publishing, Inc., 1993), esp. chapters 5 and 7; Paul Bryan Howard, "Had on and Took with Him: Runaway Indentured Servant Clothing in Virginia, 1774–1778 (Ph.D. dissertation, Texas A&M University, 1996); Jonathan Prude, "To Look Upon the 'Lower Sort': Runaway Ads and the Appearance of Unfree Laborers in America, 1750–1800," *Journal of American History*, 79 (June 1991), 124–59.

similar to those used by the enslaved to fight back against their bondage and escape their servile condition. The majority of servants resisted their masters and their unfreedom by running away either by themselves or with others. Because most servants had nothing of their own other than a suit or two of clothes, some also stole goods from their masters or from nearby storehouses in order to finance or aid them in their escape. They sometimes traded these goods with free persons (which was against the law) or stole items that would aid them in their getaway, like boats or horses. A very small number resisted violently (as discussed in chapter 3); and despite the large number of servants who appear before the court after their unsuccessful attempts to escape bondage, the majority of runaway ads that appeared in the Virginia *Gazette* throughout the eighteenth century suggest that the fear of being caught did not deter either servants or slaves from attempting to escape. While the ads in the Virginia *Gazette* illustrate the large number of servants who ran away from their masters, county court transcripts, for the most part, identify those servants who were unsuccessful in their efforts. Also included in the court records are cases in which other free persons in the community, who most likely were made aware of the escape of runaways through ads like those posted in the *Gazette*, appear before the court seeking the reward that they were promised, which most often included not only what they were guaranteed by law, which was between one hundred and two hundred pounds of tobacco, depending on how a far away the servant was taken up from his or her masters home, but also the additional reward most masters offered in order to ensure the return of their unfree laborers.

The cases of Thomas Hellier, John Waston, and John Sadler (see chapter 3)—three servants who reacted violently toward their masters, probably in

response to the violence and mistreatment they received from their own masters and mistresses—chose not to escape their bondage but instead to fight back, despite laws against it. Hellier did first attempt to run away, but he was returned to his master and mistress, at which time he decided to use violence against them. They responded to the violence of their masters and mistresses with additional violence. One other servant also enacted violence, not on his master, but on the dog of someone for whom he was providing temporary service. James Retheree was brought to court by John Wright for having killed his dog in addition to other, unspecified violence. Retheree had been hired out to Wright by his master, John Gibbons, for an unspecified amount of time. It is likely that the additional violence Retheree enacted was less egregious in nature than killing Wright's dog. Retheree was bound to twelve months good behavior, but his contract was not extended; however, his master had to assure Retheree's good behavior during that time and would be made to pay £10 for any violation of the guarantee. There was no mention of his being removed from Wright's household and returned to Gibbons's; but it is relatively clear that Wright had mistreated or misused Retheree in some way, and he felt the need to react violently to this treatment. Because Retheree's violence was enacted on a dog and not on John Wright or John Gibbons does not mean that Retheree's intentions were any different. It is possible that he had received harsh treatment from John Wright and instead of being physically violent toward him and risking an additional year of service, he instead killed his dog. And while Retheree was not punished by the court for this action, Gibbons most likely doled out some sort of punishment within his household to ensure Retheree behaved during the rest of his term and to ensure Gibbons would not owe the court £10. It is possible that Retheree's actions satisfied his need to

stand up to his temporary master and his condition and that he was able to serve the rest of his term with no further court appearances.[5]

Other bound laborers, both black and white, probably engaged in similar actions but were not brought before the court. Their masters most likely found other ways to punish them for challenging their authority and breaking or losing, and in this case killing, their property. Other servants also took goods and money belonging to their masters and neighboring free persons as a way to act out against their condition. Some might have stolen in the hopes of collecting enough goods or currency to attempt to escape, while others stole in order to obtain other goods or items they otherwise would not be able to get. One last possibility, of course, is that servants stole merely because they had the opportunity and were apt to thieving behavior. For some servants, but probably not all, theft was a way for them to maintain some control over their own lives and challenge the power of their masters and others.

Theft took many forms in colonial Virginia, and there were laws established to deter various kinds of stealing, including burglary, larceny, and robbery. Burglary was the breaking and entering of a building, dwelling house, or store in the middle of the night with the intent to harm, kill, or steal. This did not mean a theft or murder had to take place, but as long as there was intent, whoever committed the burglary was subject to hanging and denied the benefit of the clergy, which would have saved them from that fate, as anyone receiving this benefit was exempt from the jurisdiction or sentence generally associated with a specific crime. In order for someone to be guilty of breaking

[5] James Retheree, York County, 1742: York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 98.

and entering though, an actual break-in had to occur. If the burglar opened an unlocked door or entered through an open window, he or she could not be tried for burglary, but if he or she entered the building with a key or the help of someone else, that was considered burglary. All of these actions also had to take place under the cover of night, and the burglar had to have the intent to kill despite the definition's clear statement that there had to be an intent to kill *or* steal. Robbery was slightly different. Included in its definition was the element of fear as well as "the felonious and violent taking away from the Person of a Man, or from his House, Goods or Money to any Value." Anyone found guilty of robbery was sentenced to death. A third form of stealing, larceny, was defined as the taking away of goods by one person from another. Grand larceny—defined as such based on the value of the goods that were stolen—was tried before the General Court and petit larceny tried by the county courts. Anyone found guilty of petit larceny most often faced the lash, while those guilty of grand larceny were charged with a felony but granted the benefit of the clergy for the first offense. Regardless of the various intricacies of these three definitions, stealing was clearly a serious offense in colonial Virginia, and in many cases the guilty party faced death or at the very least corporal punishment for their actions. And while laws did not exist that addressed these more general acts of theft, there were those that were established to punish more specific crimes, like hog-stealing, horse-stealing, and the one probably the most relevant to servants: house-breaking.[6]

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[6] George Webb, *The Office and Authority of a Justice of the Peace* . . . (Williamsburg, 1736), 60–61, 63, 208; Richard Starke, *The Office and Authority of a Justice of the Peace, Explained and Digested Under Proper Titles* (Williamsburg, 1774), 276–77, 253, 310 (first quotation). See also Hugh F. Rankin, *Criminal Trial Proceedings in the General Court of Colonial Virginia* (Williamsburg: Colonial Williamsburg, 1965), 148–51, 158–61. Benefit of Clergy, *Oxford English Dictionary Online*, s.v. "Benefit of Clergy," accessed March 6, 2013, http://www.oed.com/view/Entry/17694?rskey=eQosCU&result=1&isAdvanced=false#eid23477500.

An act regarding house-breaking did not appear in Virginia law until 1730. This law was complicated and not only prevented the burning of houses but also addressed how accomplices and the recipients of stolen goods would be punished. Any person who broke into a warehouse or storehouse during the night or the day and took "any money, goods, chattels, wares, or merchandizes, of the value of twenty shillings lawful money, or more," or anyone who assisted in this act, automatically lost the benefit of the clergy and would be charged with a felony. Those servants found guilty of theft participated in actions similar to the ones described in this law, but they performed these actions not necessarily to do harm or instill fear in those from whom they stole but as an act of resistance against their masters and their servile condition.[7]

Between the years of 1704 and 1776, a number of cases of servant theft occurred that did not also involve running away. Although it might have been the intent of these servants to steal the goods or money with the hopes of running away after they either sold the goods or saved enough money to support themselves once they absconded, their initial motivation was to take the goods and either sell them or keep them for themselves. These servants, like those slaves who slowed their work or broke their tools, stole as an act of resistance or as a way to obtain some sort of freedom and control over their own lives, since they spent the majority of their days answering to the demands and expectations of their often abusive and exploitative masters, some of whom were often ranked only slightly higher on the social ladder than their servants. Thieving servants were willing to risk punishment in order to gain some power over their lives, and

[7] "An Act to Prevent the Malicious Burning Tobacco Houses, and other Houses and Places: For Taking Away Clergy from Certain Offenders: And For Punishing Accessories to Felonies, and Receivers of Stolen Goods (1730)," Chapter IV, Section IV, *Hening's Statutes at Large*, IV, 272 (quotation).

hopefully harm—if only financially—their master or the free person from whom they stole.

Stealing was considered a felony, as already discussed; therefore, servants found guilty of theft were usually sent to the public jail, located in Williamsburg, where they would also be brought before the General Court and not county court justices. Charles Brittain, a York County servant, was found guilty of stealing £110 and ten shillings from Archebald Blaire during the summer of 1704. Brittain was most likely sent on an errand of some sort by his master John Redwood, and seeing Blaire's store unattended, Brittain took the opportunity to steal the money. The county court ordered him to be tried in Williamsburg for his felonious act. James Wattell was also sent to Williamsburg to stand trial for having stolen a variety of goods and clothing from Ann Everitt and John Marrot. Wattell's intentions might have been to use the clothing he stole as a disguise, or to sell the clothing for other goods or money that would aid in his escape. James Duffy, a convict servant, stole twelve pounds current money after breaking into a chest and was also sent to Williamsburg. These three servants, despite stealing various sums of money and goods, received the same punishment for their actions.[8]

And while it is unclear what the ultimate intention of servants like Brittain, Wattell, and Duffy were, they most likely had a plan for the goods and the money they stole, and one of the most logical motivations would have been to sell or trade what they

[8] Charles Brittain, York County, 1704: York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85; Joseph Wattell. York County, 1713: York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85; James Duffy, Augusta County, 1775: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 72–73.

could and save enough money to sustain themselves once they decided to run away. Although these servants were ultimately unsuccessful, they did make clear to their masters and the courts that they were not pleased with their bound condition and that they were willing to break the law to challenge their masters' authority. And while it is also likely that Brittain, Wattell, and Duffy did not all steal as a form of active resistance against their masters, they still did so on their own volition. It was not something they were asked or expected to do by their masters but instead a decision they made for themselves, despite most likely knowing the consequences of their actions if caught. These servants acted alone in their felonious acts, but two others, also sentenced to hang, worked in concert with one another and most likely had similar intentions, whether resistance or simply just that they were prone to thieving. That their stealing appears to have been planned and executed over a series of days or weeks, however, indicates there was more to their actions than their being only criminally inclined. In fact their collusion suggests their willingness to take advantage of as many free persons as possible and to challenge the authority that these free persons had over them while bound.

David Heartly first appeared before the York County court in 1738 on the suspicion that he had stolen between 2,000 and 3,000 nails from Jones Irwin. Heartly remained in the Yorktown jail until he stood trial at which time his master, John Trotter, relayed his account: Trotter was made aware of the theft when Heartly attempted to sell Trotter the stolen goods. It must be mentioned that while there were no laws specifically stating that servants could not trade or bargain with their masters, there were laws in place against a master striking up any sort of bargain with his servants, which could probably be applied in the reverse. There were also laws against any free person trading

with servants. Trotter was suspicious as to how Heartly came to have the nails, but when he inquired into how Heartly obtained them, Heartly assured him that he acquired them honestly. The court decided that Heartly was not guilty of theft and released him from custody and probably ordered him back into the hands of Trotter to serve out his term. It is unclear what evidence was presented before the court that convinced them to declare Heartly's innocence, especially since all of the cases of theft already discussed ended with those servants being sent to stand trial, and possibly hang, in Williamsburg. It is also unclear why Heartly approached his master with the nails instead of another free person in Yorktown. In this case Heartly may not have intended to run away but instead hoped to make some money or trade for goods that could benefit him once he was free of his contract. Heartly it seems was fortunate that the court decided in his favor and does not appear to have questioned him on his motives, but he was back in court just a year later for breaking and entering, this time, with an accomplice.[9]

William Barbasore and David Heartly were accused of breaking and entering the storehouse of Philip Lightfoot of Yorktown and stealing a number of goods and merchandise, and they were committed to the county jail to await trial. Being presented before the court, Barbasore, when asked to recount his story, testified that over the course of two months David Heartly—the servant of John Trotter, a blacksmith—made two keys to fit the lock of not only Lightfoot's storehouse but also that of William Bowis. According to Barbasore the key made to break into Lightfoot's storeroom did not fit, but

[9] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Sections XII, XV–XVI, *Hening's Statutes at Large*, III, 450, 451–52; "An Act Concerning Servants and Slaves (1748)," Chapter XIV, Sections VII, X, *Hening's Statutes at Large*, V, 549–50, 550–51; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Sections VII, X, *Hening's Statutes at Large*, VI, 358–59, 359–60; David Heartly, York County, 1738: York County Deeds, Orders, Wills, 1732–1740, 18, reel 9 (microfilm), Library of Virginia, Richmond, Virginia, 463.

the one made for the lock on Bowis's storehouse did. After successfully opening the lock, Barbasore admitted to taking several items from Bowis's storehouse. Heartly then carried those goods to Poquoson—a parish also located in York County—to sell. Barbasore also admitted to then breaking into his own master's storehouse, taking several bottles, and transferring them to Heartly, who again sold them in Poquoson. Heartly also attempted to open the storehouses of Thomas Nelson and Richard Ambler, two Yorktown merchants, but the key Heartly had made did not work. Returning once again to the storehouse of Philip Lighfoot, despite their failed first attempt, the second time they successfully gained entrance. Heartly entered under cover of night and took various goods probably with the intent on selling them in Poquoson. At this point no decision was made regarding the fate of Barbasore because the court most likely wanted to corroborate his story with that of Heartly before they made any final decisions; therefore, Heartly was called to the bar to present his version of events.[10]

David Heartly, who was accused of breaking and entering the storehouse of Philip Lightfoot with William Barbasore, told his version of events at the same court. He admitted to breaking into Lightfoot's storehouse with a key he had made and taking some linen. Heartly also said that Barbasore was not in possession of the key used to take these items. He shared no more information than that.[11]

It is interesting that the stories of Barbasore and Heartly, both servants who clearly worked together to break into at least one storehouse—and probably more according to Barbasore's account—and sell the goods that they stole, would give such

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[10] William Barbasore, York County, 1739: York County Deeds, Orders, Wills, Inventories, 1732–1740, 18, reel 9 (microfilm), Library of Virginia, Richmond, Virginia, 513.

[11] David Heartly, York County, 1739: York County Deeds, Orders, Wills, Inventories, 1732–1740, 18, reel 9 (microfilm, Library of Virginia, Richmond, Virginia, 513.

different accounts before the court. The historical record clearly stated that they were committed to the county jail and presented before the court to answer claims regarding the breaking and entering of Lightfoot's storehouse. Heartly did just that, but Barbasore did not. Barbasore shared much more detail, claiming that they attempted to break into Lightfoot's storeroom not once, but twice. After the first failed attempt they turned to the storehouses of William Bowis and William Rogers, Barbasore's master, and successfully stole various goods for Heartly to sell. Barbasore then claimed that Heartly, working alone, attempted to break into two more storehouses before they both attempted to break into Lightfoot's storehouse for a second time.

What Barbasore's testimony suggests is that both he and Heartly challenged not only their condition but also the power and authority of multiple Yorktown residents, people with whom their masters most likely had regular dealings. Heartly took advantage of his master James Trotter, from whom he learned how to make keys, since Trotter was a blacksmith. He also took advantage of the person in Poquoson, if that person believed that Heartly was a free person with whom he was engaging in an honest and legal trade relationship. If the contact in Poquoson was aware that Heartly was a servant, then he too played a role in the dishonest actions and most likely encouraged them to continue for his own profit. Heartly's actions, like those of Brittain, Wattell, and Duffy, might be explained as an act of resistance. Heartly might have believed he was being taken advantage of as a white unfree laborer. Although it is also possible that Heartly was just a thief. Barbasore probably believed that he could save himself from being charged with a felony if he admitted to all of the wrongdoing both he and Heartly were guilty of, although his testimony appears to have placed most of the blame and onus on Heartly:

Heartly had made the keys, had sold the goods, and had attempted, independently, to steal from two other people. Unfortunately for Barbasore, this additional information did not save him from the General Court or the Williamsburg gaol (jail). Both he and Heartly were sent to Williamsburg to stand trial, but not before several unnamed witnesses gave undocumented testimony against both servants before the General Court.[12]

On November 2, 1739, William Barbasore, along with eight other so-called malefactors, were tried, convicted, and sentenced to death by hanging in Williamsburg. The list of persons ordered to hang, along with four others ordered to be burned in the hand, does not indicate the condition of these malefactors as either servant or free; therefore, it is possible that several other people on this list were also servants, but since the punishment for a felony performed by anyone, servant or free, was the same it is possible that some of them were free persons. David Heartly did not appear on this list because he died in jail sometime between August when he arrived and November when he was to be sentenced. Barbasore, however, along with a woman, was pardoned by Lieutenant Governor William Gooch "upon Intercessions in their Favour" by persons unknown. Had these unknown persons not interceded it is likely that Barbasore would have hanged with the other seven felons for having broken into and stolen from the storehouse of Philip Lightfoot.[13]

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[12] William Barbasore and David Heartly, York County, 1739: York County Deeds, Orders, Wills, Inventories, 1732–1740, 18, reel 9 (microfilm, Library of Virginia, Richmond, Virginia, 513, 514.

[13] William Barbasore and David Heartly, York County 1739: York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85; Emily J. Salmon and Edward D. C. Campbell Jr., eds., *The Hornbook of Virginia History: A Ready-Reference Guide to the Old Dominion's People, Places, and Past* (4th ed.; Richmond: The Library of Virginia, 1994), 106.

While nothing was ever mentioned of the person in Poquoson with whom David Heartly traded, Virginia law clearly stated that no free person was to "trade or truck" with servants. But some free persons were more concerned with making a profit off of a trade than getting caught doing so with servants, despite the threat of spending one month in jail and, later, one month in jail plus a payment of four times the value of whatever goods exchanged hands, and by the eighteenth century, jail time, compensation, and possibly a whipping. Unfortunately for Charles Brittain, James Wattell, and James Duffy discussed earlier for having stolen various sums of money and other goods and clothing, they were caught before they could even sell what they stole and sentenced to stand trial in Williamsburg where they risked being ordered to hang. It is possible and probably likely that these two servants intended to sell their stolen goods, not so they could have their own money to sustain them once free but in order to gain immediate freedom from their masters despite still having time to serve. David Heartly and William Barbasore, however, were successful in selling their goods, not in Yorktown where their masters lived, but in Poquoson, a bit further away where whoever purchased the goods might not have known that Heartly was in fact a servant.[14]

This case involving William Barbasore and David Heartly is the most complete of any of the cases of theft discussed in this chapter. The outcome is actually known,

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[14] Act LX (1643), *Hening's Statutes at Large*, I, 274–75 (quotation on p. 274); "Against Tradeing with Servants (1658)," Act XXVI, *Hening's Statutes at Large*, I, 445; "Against Trading with Servants (1662)," Act CV, *Hening's Statutes at Large*, II, 118–19; "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Sections XV–XVI, *Hening's Statutes at Large*, III, 451–52; "An Act Concerning Servants and Slaves (1748)," Chapter XIV, Section X, *Hening's Statutes at Large*, V, 550–51; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section X, *Hening's Statutes at Large*, VI, 359–60; Charles Brittain, York County, 1704: York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85 (first quotation); Joseph Wattell, York County, 1713: York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85 (second and third quotations).

whereas in most other cases in this chapter as well as throughout other chapters, the guilty party—whether servant or master—is summoned to the next court never again to appear in the court records. While it is difficult to state definitively that Charles Brittain, James Wattell, and James Duffy, also found guilty of theft and sent to Williamsburg, were ultimately hanged, it is likely they were, unless they too had free persons speak or write to the governor in their behalf to be pardoned. These cases, recorded by court justices who were among some of the most respected men in the county, also make it difficult to know exactly why these servants stole. Maybe they did not view their actions as a form of resistance against their masters. Maybe they would have just as easily have stolen from fellow servants or poor whites. But even if that was the case, they still performed these actions not because it was something their masters required them to do while bound but because it was something they wanted to do, even if for dishonest reasons. Moreover, Barbasore and Heartly attempted to break into a number of storehouses during a two-month period, and it stands to reason that it might have been because they hoped to cheat those well-positioned and relatively wealthy men of both goods and money, something they were unable to have themselves without the permission or oversight of their masters.

In the case of Barbasore, it seems as though he experienced both the disadvantages and the advantages of his condition. He willingly went against laws that stated his inability as a servant to trade and bargain with free persons and challenged the authority of his master and other Yorktown free persons by colluding with another servant to steal goods and make money. But he also benefited from the kind words and actions of one or several persons who spoke in his behalf to Lieutenant Governor Gooch

just before he was to be hanged. Any slave caught doing the same most likely would not have experienced the same outcome. They would have appeared before the court of oyer and terminer and might have been sentenced to hang, or, more likely, would have been returned to their master to receive some form of corporal punishment and been used as an example of what happens to a slave who commits crimes.

Charles Brittain, James Wattell, James Duffy, William Barbasore, and David Heartly were all found guilty of stealing various goods, and in the case of Brittain and Duffy, sums of money. While there was no mention in any of these cases that the ultimate goal of any of these servants was to escape their bondage, it is a likely motive. It is possible that they hoped to slowly collect enough goods or money to run away from their masters and avoid serving out the rest of their contracts. Even if that was not the ultimate goal, the act of stealing was an act of resistance, or at the very least a moment in which these servants took it upon themselves to act not as their masters saw fit, but instead as they wanted, even if that meant acting outside of what was expected of not only servants but all free persons. By taking from their masters or other free and powerful men within the community they were challenging their authority and the authority of the courts. Their intention was to take from and benefit from the removal of goods from the storehouses of men who held power over them. Unfortunately for the servants, they all were caught. Even if their ultimate goal was not to escape their bondage before the expiration of their contracts, there were servants engaging in illegal acts against much more powerful and well-positioned residents of the colony well into the eighteenth century. These five happened to be sentenced to hang; other servants caught stealing were whipped, which although it suggests a lack of predictability or uniformity in the decisions handed down

by the county courts, was a clear indication that those servants who disobeyed were punished in some way, as were any other persons caught stealing, which, oddly, might have made these servants feel somewhat equal to free white thieves, as they both received the same punishment for the same crime.

Various other servants who were also accused of felonious acts faced the lash rather than the rope. During the 1720s and 1730s Margaret Williams and Edmund Gwyn were both accused of stealing and initially placed in the county jail until presented before the court justices. At that time Williams, who was suspected of picking the pocket of Thomas Mitchell and taking money from Henry Bowcock's home, was ordered not to hang in Williamsburg but instead received twenty-five lashes. Edmund Gwyn had much the same experience nine years later. He took various goods from his master Thomas Nelson, was committed to the county jail, but then was ordered to receive thirty-nine lashes at the public whipping post. Gwyn, it appears, had intended to sell the stolen goods to Alice Murray but was caught before he was able to do so. Catherine Bartley and Valentine Dutton were both accused of stealing money and various goods from free persons in Augusta County during the 1770s. Bartley took from her master a variety of things and an unspecified amount of money, while Dutton, specifically identified as a convict servant, broke into the storehouse of William Holliday and George Kenneday and took three dollars and some silver. Both were ordered to receive thirty-nine lashes at the public whipping post. Fanny Red stole some silver from Charles Mortimer in Essex County in 1768 and received thirty-nine lashes also before being returned to her master. It is probable that all of these servants were returned to the service of their masters after they received their lashes, and it is unclear why Williams received a lesser punishment

than the others, but it is probable that the value of the goods she stole played a role in the number of lashes she received. The others were given the maximum number of lashes for their crimes.[15]

That only Valentine Dutton and James Duffy were specifically identified as convict servants suggests that the other servants accused of this crime were not convicts and, instead, were most likely indentured or customary servants. This fact alone indicates that all servants were likely to resist or break the law regardless of their status as indentured, convict, or customary servants, and that it was not how they came to be bound but their experiences while bound that led them to resist in this way. Any servant who came before the court for having disobeyed the law or their master in some way felt the need to resist their condition, not just convict servants who some argued were naturally compelled to a life of crime. It is probable, however, that some—or even all—of these servants accused of theft and burglary were thieves and did not attempt to steal in order to resist their condition. However, even thieves in many ways acted in protest, taking goods and money that was not theirs, showing some power over themselves, making decisions for themselves and not always being told what to do or expected to be obedient to someone else, and challenging laws that made such actions illegal.

The ten servants found guilty of theft during the early eighteenth century appear to have received harsher punishments—Brittain, Wattell, Duffy, Barbasore, and Heartly faced hanging and Williams, Gwyn, Bartely, Dutton, and Red the lash. While we can

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[15] Margaret Williams, York County, 1723; Edmund Gwyn, York County, 1732: York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85. Catherine Bartley, Augusta County, 1775: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 49–50; Valentine Dutton, Augusta County, 1775: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 55; Fanny Red, Essex County, 1768: Essex County Orders, 1767–1770, 27, reel 80 (microfilm), Library of Virginia, Richmond, Virginia, 43.

only guess these thieving servants eventually intended to run away, there is also the possibility that they meant to keep the stolen items in their possession until they gained their freedom at which time they would use them to support themselves, since the freedom dues they were given by their masters would not sustain them for long. Or, some of them might have wanted to save just enough to aid them in running away. The items these servants stole make it difficult to assess their motivations or to even suggest definitively that they hoped to escape. It is possible that they stole only to resist or protest their condition, to see if they could manipulate their masters or local free persons. But it is also possible that they stole to gain access to goods or items that were not available to them. Their manipulation or secret acts of defiance were by no means equal to the exploitation some servants might have experienced at the hands of their masters, but that defiance might have given these servants power over themselves even if momentarily. The act of stealing was a decision they made for themselves and not one they were ordered by their masters to perform. Unfortunately it ended in a felony conviction. Whether they planned to run away or not, they did not get away; other servants did, however, and some were able to take stolen goods with them.

Virginia laws concerning runaway servants and runaway slaves were established during the early seventeenth century and remained in place throughout the eighteenth century. These laws did not just include the punishments doled out to runaways themselves but also included how runaways, if found, were to be transferred back to their masters, how the colonists who found the runaways were to be compensated, and how servants or slaves whose masters never claimed them were handled after a certain time. The most important laws for the purposes of this chapter are the ones that show how the

punishments changed over time, but it is also important to understand how runaways were taken up, the reward people received for finding runaways, and the role of the court justices, sheriffs, and constables in the finding of runaway servants. In short, tracking down runaways, whether servants or slaves, was an undertaking that involved more than just the master or mistress and his or her immediate friends and neighbors. And while some of these laws were most likely aimed at finding runaway slaves, the use of simply the term "runaway" in many of these laws suggests that they applied to all unfree labor, whether white or black, temporarily or permanently bound; ads in the Virginia *Gazette* suggest much the same: that both masters and the larger community were always on the lookout for bound laborers attempting to escape their masters and their bonded condition.

Beginning in 1643 Virginia established laws setting out how runaway servants would be punished if found. This law, in various iterations, appeared throughout the seventeenth century, and portions of it persisted into the eighteenth century as well. But in 1643 the law stated that runaways were to serve double the time of their absence once recovered by their master. So, if a servant was absent for three months, he or she would be bound to serve his or her master for six months after the expiration of his or her indenture. But if the courts found "it requisite and convenient," the servant could be made to serve even more time. This addendum was intentionally vague so that justices could have as much leeway as possible to extend the service of any given servant. If a servant attempted to run away a second time, he or she was to be branded on the cheek with the letter "R." By 1656 second offenders were still branded, but the location of the branding was not specified. There were a few small changes to this law in 1662. Servants were still to serve double the time of their absence, but if they ran away during the planting or

cultivation of "the crop"—tobacco—or if the master spent a large amount of money in finding them, the court could extend their indenture as they saw fit, which was similar to the 1643 law but much clearer in its presentation of when and why court justices could increase the service of particular servants. Also new in this 1662 law was that if a master wanted their servant to serve out that additional time, they were required to present them to a commissioner and prove the servant's absence from their household at which time the master received certification allowing the extra time to be served. In 1670 "An Act Concerning Runaways" did not address the extension of the runaway's term, but it did state that any runaway who attempted to abscond a second time was to have his or her hair cut short by his or her master. Hair cutting was also a part of a 1659 act entitled "How to Know a Runaway Servant," which stated that the reason a servant's hair should be cut was to make them readily identifiable. Because most servants were white like their masters, the courts hoped to mark them in some way as servants. Branding, it seems, was no longer acceptable. Any master who refused to do this was fined two hundred pounds of tobacco. In addition, the constable who initially received the runaway from whomever found the servant was to whip them before handing them over to their master. And if the servant passed through the jurisdictions of a number of constables—officers appointed to maintain the peace in their parishes and to perform various administrative duties—before arriving at his or her master's home, he or she was to be whipped by every constable along the way.[16]

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[16] Act XXI (1643), *Hening's Statutes at Large*, I, 254–55 (first quotation on p. 254); Act XI (1656), *Hening's Statutes at Large*, I, 401; "Run-aways (1662)," Act CII, *Hening's Statutes at Large*, II, 116–17; "How to Know a Runaway Servant (1659)," Act III, *Hening's Statutes at Large*, I, 517–18. "An Act Concerning Runaways (1670)," Act I, *Hening's Statutes at Large*, II, 277–79. Constable, *Oxford English Dictionary Online*, s.v. "Constable," accessed March 6, 2013, http://www.oed.com/view/Entry/39795?redirectedFrom=constable#eid.

By the eighteenth century, runaway laws eliminated the requirement to physically brand or mark any servants as a runaway but did implement surer ways to extend a runaway servant's service. The extension of a servant's contract based on absent time remained in place, but instead of any additional time being assigned at the discretion of the court, it was added based on a master's monetary outlay in recovering his or her servant. For every one hundred pounds of tobacco a master spent in looking for his servant, that servant was required to serve an additional month and a half to pay back the money spent looking for them; therefore, if a master paid out 800 pounds of tobacco to various persons to aid in finding a runaway servant, that servant was required to remain in bondage for twelve more months *and* serve double the time he or she was gone from his or her master's household. So, if a servant was gone for twelve days and their master spent 800 pounds of tobacco in search of them, that servant's contract was extended by one year and twenty-four days. The doubling of the absent time, in addition to the whippings a servant received from each constable they encountered, was apparently not enough to dissuade servants from absconding, so the courts implemented an additional extension as a way to deter running away. Servants were also given the option to repay their masters and avoid the additional time; but as discussed in previous chapters, it was unlikely that any servant had any tobacco with which to reimburse their masters. In order to gain the additional service, masters were required to bring their runaway servants to court after recovering them in order to certify and approve that extra time would be served. If a master failed to do so, it was within the justices' rights to deny them the claim. And while a master and his or her servant were the main focus when a servant ran away, the entire community was required to be on the lookout for these runaways and

take them up and deliver them to the proper authorities in order that masters might lose as little time as possible from their bonded laborers.[17]

To incentivize the community to find these runaways, rewards were offered to any person who found them, which then led to a number of free persons appearing before the court to get the money guaranteed to them by law. If a servant or slave was found over ten miles from his or her master's home, the person who took the servant into custody received two hundred pounds of tobacco. If the servant or slave was found between five and ten miles, the so-called taker up received one hundred pounds of tobacco from the master of the run away. These rewards, guaranteed by law, were usually supplemented with smaller rewards offered by the master, like the one pistole reward offered by William Taite for the return of Thomas Page at the start of the chapter. And just as colonists were rewarded for finding servants, they were also fined for harboring them; that fine ranged from twenty to sixty pounds of tobacco for every day the servant was kept from his or her master (by the eighteenth century that fine was between thirty and sixty pounds), but the majority of cases that came before the courts involved persons seeking compensation for having taken up and returned servants to their masters.[18]

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[17] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Sections XXX–XXXI, XXXIII, *Hening's Statutes at Large*, III, 458, 459; "An Act Concerning Servants and Slaves (1748)," Chapter XIV, Section XXII, *Hening's Statutes at Large*, V, 557.

[18] For rewards see "An Act Concerning Servants and Slaves (1705), "Chapter XLIX, Section XXIII, *Hening's Statutes at Large*, III, 455–56; "An Act Concerning Servants and Slaves (1748,) Chapter XIV, Section XVI, *Hening's Statutes at Large*, V, 552; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section XVII, *Hening's Statutes at Large*, VI, 363. For fines for harboring see "Act XXII (1643), *Hening's Statutes at Large*, I, 253–54; Act XI (1656), *Hening's Statutes at Large*, I, 401; "Against Runaway Servants (1658)," Act XVI, *Hening's Statutes at Large*, I, 440; "An Act Against Entertayners of Runawayes (1666)," Act IX, *Hening's Statutes at Large*, II, 239; "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XXI, *Hening's Statutes at Large*, III, 454; "An Act Concerning Servants and Slaves (1748)," Chapter XIV, Section XIII, *Hening's Statutes at Large*, V, 551; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section XVI, *Hening's Statutes at Large*, VI, 362.

In order to receive their reward for taking up a fugitive servant, free persons had to present the said servant before the court, have that servant's information documented, and receive a certificate acknowledging their involvement in the return of the servant to his or her master. In York County alone during the first half of the century, ninety free persons appeared before the court to document their taking up of a runaway or to seek the compensation guaranteed to them. In addition, almost forty servants had the extension of their indentures documented by the court during that same period. In sum, during that time period over one hundred servants ran away from their masters and were returned to their service, and these numbers include only those who came before the court, not those whose masters announced their escape in the Virginia *Gazette*.[19]

[19] For laws regarding certification of return see "Run-aways (1662)," Act CII, *Hening's Statutes at Large*, II, 116–17; "Against Runawayes (1669)," Act VII, *Hening's Statutes at Large*, II, 273–74; "An Additional Act about Runawayes (1686)," Act I, *Hening's Statutes at Large*, III, 28–29; "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XIII, *Hening's Statutes at Large*, 455–56; "An Act Concerning Servants and Slaves (1748)," Chapter XIV, Section XVI, *Hening's Statutes at Large*, V, 552–53; "An Act for the Better Government of Servants and Slaves (1753)," Chapter XVII, Section XVII, *Hening's Statutes at Large*, VI, 363–64; "An Act to Amend the Act for the Better Government of Servants and Slaves (1765)," Chapter XXV, Section I, *Hening's Statutes at Large*, VIII, 135–36; "An Act to Amend the Act, Intituled An Act for the Better Government of Servants and Slaves (1769)," Chapter XIX, Section III, *Hening's Statutes at Large*, VIII, 359. For cases regarding the appearance of free persons to certify their taking up of a runaway or to seek payment for doing so see York County Deeds, Orders, Wills, 1697–1702, 11, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 370–72; York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 104, 326; York County Orders, Wills, and Inventories 1710–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 37–39, 114, 115, 365, 434; York County Deeds, Orders, Wills, 1716–1720, 15, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 223, 224, 225, 328, 677, 678; York County Deeds, Orders, Wills, 1720–1729, 16, reel 7 (microfilm), Library of Virginia, Richmond Virginia, 125, 126, 199, 382, 383, 384, 501, 502; York County Deeds, Orders, Wills, 1732–1740, 18, reel 9 (microfilm), Library of Virginia, Richmond, Virginia, 148, 304, 305, 306, 456, 457, 610, 640; York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 307, 308. For cases regarding the appearance of runaways to receive extended time see York County Deeds, Orders, Wills, 1706–1710, 13, reel 6 (microfilm), Library of Virginia, Richmond, Virginia 137; York County Orders, Wills, and Inventories 1710–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 55, 355; York County Deeds, Orders, Wills, 1716–1720, 15, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 276, 290, 339, 392, 503; York County Deeds, Orders, Wills, 1720–1729, 16, reel 7 (microfilm), Library of Virginia, Richmond Virginia, 80, 135, 146, 156, 168, 321, 343, 359, 389, 419, 489, 601; York County Deeds, Orders, Wills, 1729–1732, 17, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 12, 104, 236; York County Deeds, Orders, Wills, 1732–1740, 18, reel 9 (microfilm), Library of Virginia, Richmond, Virginia, 164, 174, 263, 277, 309, 312, 349.

The cases in which free persons appeared before the York County court seeking certification or satisfaction (compensation) for taking up a fugitive servant were frequent, and some free persons appeared before the court on more than one occasion to gain payment. Free persons, then, not only felt an obligation to return bonded laborers to their masters in order to ensure that masters did not lose valuable time and labor from their servants but also to receive payment, most often in tobacco. Since the law guaranteed between one hundred and two hundred pounds of tobacco depending on the distance the servant was found from the master's home, and the master often offered their own reward ranging anywhere between one pistole (eighteen shillings) and forty shillings, and sometimes more, it behooved free persons to be on the lookout for escaped servants and slaves. Lieutenant Colonel Thomas Ballard brought two servants before the court in 1700 seeking certification. He would most likely then use that certificate to demand compensation if Reverend John Bertromb and Richard White—the masters of the two captured servants—did not pay him in a timely manner. Ballard found Bertromb's servant, William Stivenson, over ten miles from Bertromb's home, and he found John Green over forty miles from White's home. And because Ballard's appearance in court predated the 1705 act concerning servants and slaves, he was supposed to receive one thousand pounds of tobacco for having taken up these servants. Stivenson and Green, in 1700, would have been made to serve additional time once their contracts expired in order to cover those costs.[20]

Simon Stacy also took up two servants later in the century. He found a servant man belonging to George Shelton over ten miles from Shelton's home and a servant boy

[20] William Stivenson, 1700: York County Deeds, Orders, Wills, 1697–1702, 11, reel 5 (microfilm), 370; John Green, 1700: York County Deeds, Orders, Wills, 1697–1702, 11, reel 5 (microfilm), 370; "Against Runaways (1669)," Act VIII, *Hening's Statutes at Large*, II, 273.

over twenty miles away from Charles Chiswell's home. While it is likely that Stacy received two hundred pounds of tobacco for the servant man, since he was over ten miles from his master's household, it is unclear if that amount would have been doubled for the taking up of the servant boy over twenty miles from Chiswell's residence, but since the law clearly stated that anyone found "above ten miles" received two hundred pounds of tobacco, Stacy most likely received a total of 400 pounds of tobacco for his efforts.[21]

While it is unclear whether or not Stacy himself owned servants or slaves, there is evidence of other persons who also had servants and slaves aiding in the return of runaway servants. David Cunningham appeared in court to receive the tobacco he was owed for returning Mary Mollineux to Captain William Cox in April 1718; two months later he appeared having spent four hundred pounds of tobacco in recovering his own runaways, William Mockridge and Alexander Stinson. Both servants were absent seven days and made to serve an additional three months and fourteen days to make up for the money spent by Cunningham and the time lost. Those masters who took up servants understood the importance of returning a temporary bonded laborer to his or her master as quickly as possible, although the monetary compensation was not inconsequential.[22]

Those free persons involved in taking up runaways were economically motivated to do so. They knew that by returning fugitive servants they would be rewarded for their actions; therefore, servants not only faced exploitation and possible misuse and

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[21] Servant man taken up by Simon Stacy, 1710–1711: York County Orders, Wills, and Inventories, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 39; Servant boy taken up by Simon Stacy, 1710–1711: York County Orders, Wills, and Inventories, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 39.

[22] Mary Mollineux taken up by David Cunningham, 1718: York County 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 223; William Mockridge and Alexander Stinson, 1718: York County 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 290; "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XXIII, *Hening's Statutes at Large*, III, 455–56.

manipulation by their own masters but also by the greater free community who also did not view them as fellow or future free persons but as bound labor made to serve. It is also a possibility that some free persons who may not have owned their own servants or slaves or were struggling to earn a living might have seen a social benefit in aiding their wealthier, more powerful neighbors. By doing so they might have gained both trust and respect from these richer men and raised their own social standing in the process. Conversely, those poorer freeholders made it clear to those servants who they eventually turned in that they did not identify with them in any way and that despite many of the servants being white, they were not equal to freeholders, and would remain unequal even if they managed to gain their freedom. Runaway servants were much more similar to slaves than they were to wage earning free persons in colonial Virginia, which was almost certainly one of their motivations for running away. If their escape meant a loss of labor to their masters and an assertion of agency, many probably saw it as a success and even attempted to abscond on more than one occasion.

Whereas many servants who were unsuccessful in their attempt to run away most likely endured their bondage and the extra time they were made to serve for having fled, there were those who were willing to risk escape a second time. It could be that these servants were unwilling to bear their ill-use or exploitation any longer and were willing to risk even more time being added to their contracts if they were caught after attempting to abscond again. And since these servants appeared before the court after both attempts, their bondage was extended, twice. It is likely that while their masters might have forgiven them after their first flight, they were not as understanding after the second, and these servants probably endured a bondage even worse than the bondage they hoped to

escape. Their masters were now likely to remind them of their condition and regularly point out the power and authority they held over them.

Most often those servants who ran away a second time did so within a year of having been returned to the service of their master. But that did not mean that some servants absconded several years after their first attempt. Lewis Davis appears to have had a long and contentious relationship with his master John Gibbons. This John Gibbons was probably not the Gibbons who bound James Retheree, brought before the court for having killed John Wright's dog, not only because Retheree appeared before the court over twenty years after Davis's first two attempted escapes but also because Gibbons's estate was appraised in 1727, which usually suggests the death of the owner of that estate. After Davis's initial escape in 1721 he was made to serve Gibbons an additional nineteen months after the expiration of his indenture, but no information was given regarding the length of his absence. If based strictly on absent time and not on how much Gibbons spent in recovering Davis, Davis might have been gone for over nine months. Within a year, Davis ran away again and was gone for three months before he was taken up, which added another eighteen months, one week, and four days to his contract, and Gibbons claimed to have spent over seven hundred pounds of tobacco looking for him. While it is unknown how much time Davis had remaining on his contract when he first fled, after two failed escapes he was required to serve Gibbons an additional three years and one month. Four years later, Davis ran away again, but this time only added twenty days to his bondage, which suggests that he was only gone for ten days before he was returned to Gibbons. Davis lived in a household with at least four slaves. It is possible that he was treated much like a slave by Gibbons, which might have prompted his three escapes. And

unlike other servants who sometimes worked in concert with slaves to run away, Davis ran away alone, probably in hopes of not getting caught. The historical record indicates, however, that he was not successful.[23]

William Dun also ran away during the early 1720s. He was first caught after having been absent seventeen days in February 1722, but within two months fled again and was gone for thirty-one days. For these two escapes, Dun was ordered to serve Joseph Thomas an additional thirteen weeks and five days. Dun attempted to run away one more time in February 1723 and was taken up again. This case, though, does not indicate how long his contract would be extended because he was presented before the court by two men seeking compensation, Robert Ballard and William Gordon. Both expected to be compensated for finding Dun over five miles from Thomas's home. But the court decided in favor only of Gordon's claim and ordered that he receive the one hundred pounds of tobacco for his work. Ballard and his slave—whom Ballard claimed was responsible for the capture of Dun—left empty handed. While it is left to conjecture as to why William Gordon received the reward for the taking up of Dun and Robert Ballard did not, only one of them could be rewarded. There was no way that Joseph Thomas would be willing to compensate two people for the return of Dun to his service.[24]

Both John Gibbons and Joseph Thomas benefited from their position in society as well as Virginia laws and fellow free persons. They were able to retrieve their fugitive servants and gain more service from them. Lewis Cornish and William Dun were

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[23] Lewis Davis, York County, 1721, 1722, 1726, 1727: York County Deeds, Orders Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 28, 156, 419, 463–64.

[24] William Dun, York County, 1722, 1723: York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 135, 199. For Dun's earliest appearance see York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85.

challenging their masters' authority and attempted to escape their temporary bondage. Neither was willing to serve out the remaining time on their contract and become free; they desired immediate freedom and attempted to gain it more than once. With their resistance came additional service and probably worse mistreatment.

One master—a former servant—had a servant run away in 1735 and again in 1737. Charles and Mary Stagg arrived in Virginia as servants in 1715 and agreed to serve William Levingstone for four years. Charles Stagg was a dancing master and his wife most likely his dancing partner. After one year of service Stagg petitioned Levingstone to release him and his wife from their contract. It appears as though they were able to support themselves as dancing instructors and no longer wanted to be—or needed to be—bound. Levingstone had indentured them for their skills; therefore, he was most likely receiving much of the Stagg's earnings. Charles and Mary Stagg were released from their contract but required to pay Levinstone £60 for three years to cover the cost of their transportation to the colony. The Staggs were servants only for a brief time before gaining their freedom and had skills that were both unique and in demand; therefore, their ability to support themselves once free and eventually have their own servants, while uncommon for many servants who left their bondage with only a barrel of corn and a suit of clothes, was not the leap it might have been for some other servants. And their success as dancing instructors made it possible for them to eventually have their own servants, one of whom ran away.[25]

Thomas Sellers was returned to Charles Stagg in January 1735 after attempting to escape his bondage. He was ordered to serve Stagg an additional twenty-eight days (he

[25] Charles and Mary Stagg, York County, 1716: York County Deeds, Orders, Wills, 1720–1729, 16, reel 18 (microfilm), Library of Virginia, Richmond, Virginia, 52, 54.

was absent for fourteen days). Sellers was also made to pay Stagg 4 pounds, 15 shillings, and 9 pence and two hundred pounds of tobacco, or serve him still additional time to repay that amount, which was most likely what Stagg spent in recovering him. At the time of Stagg's death in 1736, Thomas Sellers had two more years to serve and Anne Walker, a servant woman, had an additional five years. Mary Stagg hired Sellers out to Colonel Benjamin Harrison, and while he was working for Harrison, Sellers ran away again. There is no record of his recovery, but Mary Stagg announced his escape in hopes that he would be returned to her to finish out his term. According to the announcement, Sellers was a musician—who probably played while Charles and Mary taught people to dance—and had run away with a shoemaker. Mary promised that whoever took up Sellers would be "handsomely rewarded." [26]

Like Charles and Mary Stagg, Thomas Sellers, a skilled violinist, might have believed he was unfairly bound and would be able to support himself on his own. But even if he had approached the Staggs with this possibility, he remained bound. The Staggs also had a woman servant in their household, although it is unclear what sort of work she performed. She probably performed household duties as did many other female servants. Regardless of Sellers's motivations for running away, he desired to be free and believed the best way to attain that freedom was to abscond with a shoemaker, Richard Hooper, who was not a servant but instead had left the county to avoid paying a debt.

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[26] Thomas Sellers, York County, 1735, 1736, 1738: York County Deeds, Orders, Wills, Inventories, 1732–1740, 18, reel 9 (microfilm), Library of Virginia, Richmond, Virginia, 164, 285; York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85; Williamsburg Virginia *Gazette* (Parks), January 6–January 13, 1738 (quotation); see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg38.xml&adId=v1738011312. Anne Walker, York County, 1736: York County Deeds, Orders, Wills, Inventories, 1732–1740, 18, reel 9 (microfilm), Library of Virginia, Richmond, Virginia, 285.

Sellers may have believed that by running away with a free person he would have someone to vouch for him and claim that he, too, was free. While uncommon, other servants also believed their best chance at escaping their bondage was to escape with free persons, some of whom were not always well-positioned or respected.[27]

At least three—and most likely many more—servants, other than Thomas Sellers, ran away from their masters with free persons during the first half of the eighteenth century. William Bellaman, the servant of Benjamin Fisher, escaped with a man identified only as Hawkins. Despite only being referred to as Hawkins, he was not a slave. He was a magician "who [went] about the Country, shewing Tricks by slight of Hand." In the same year Henry Watkins ran away with Thomas Powel, who is described only as "a free Man." In 1751 William Frye disappeared from the home of his master, Nicholas Sournas, with Mary Sournas, his master's wife. Sournas's ad made clear that he was more concerned for the return of Frye and the horse they took with them than the return of his wife. He suggested that Frye and his wife would most likely attempt to present themselves as a married couple, but since Mary "ha[d] eloped from [Sournas] he warned anyone who had any dealings with her not to trust her.[28]

These cases, especially those involving Bellaman and Frye, were most certainly unique. None of these free persons aiding runaway servants were landholding whites but

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[27] Williamsburg Virginia *Gazette* (Parks), January 6–January 13, 1738 (quotation); see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg38.xml&adId=v1738011312.

[28] William Bellaman and Hawkins, 1738: Williamsburg Virginia *Gazette* (Parks), October 13–October 20, 1738 (first quotation); see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg38.xml&adId=v1738101340; Henry Watkins and Thomas Powel, 1738: Williamsburg Virginia *Gazette* (Parks), May 12–May 19, 1738; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg38.xml&adId=v1738051322; William Frye and Mary, 1751: Williamsburg Virginia *Gazette* (Hunter), October 31, 1751 (second quotation); see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg51.xml&adId=v1751101454.

rather individuals not necessarily held in high esteem in Virginia society. Bellaman and Frye chose a magician and a married woman respectively to aid in their escape, people who were just as likely to be identified and taken up as they made their way out of the counties occupied by their masters. Hawkins because he was a magician who traveled widely performing his sleight of hand, and Mary Sournas because, being married to Nicholas Sournas, was most likely known and identified as his wife; therefore being seen with another man would draw unwanted attention from people who might recognize her. It is possible that Bellaman worked in concert with Hawkins since Hawkins seems to have traveled the region performing his tricks and therefore might have been familiar with not only the landscape but other free persons who might be willing to aid a servant in his or her escape. It is unlikely that he planned to stay in the company of Hawkins very long. Frye, though, appears to have planned to run away with and remain with Mary Sournas. Nicholas Sournas's assumption that they would attempt to pass as husband and wife was probably correct. William Frye and Mary Sournas appear to have established an amorous relationship while Frye worked in the Sournas household and in order to continue that relationship, they had to run away. Free persons such as Hawkins and Sournas, while appearing to be fellow runaways when mentioned in ads announcing their departure, would probably be punished for aiding and entertaining servants—which was against the law—if brought before the county courts.

One section of the Virginia law code specifically restricted the interaction between free persons (other than the servant's master) and servants. It made illegal the harboring or entertaining of any servant who did not have certification of their freedom. Anyone found entertaining, or in the cases of Hawkins and Mary Sournas, working in

concert with a servant, was made to pay the master of that servant between thirty and sixty pounds of tobacco for every day the servant was absent from his or her master's plantation. It is likely, then, that Hawkins would have been made to pay sixty pounds of tobacco to Benjamin Fisher for every day that William Bellaman was gone. Hawkins and Bellaman, though, would have had to have been caught for this punishment to take effect. Mary Sournas, however, would probably not be made to pay the thirty pounds (the difference in her fine being that she ran away with Frye in 1751, after the establishment of the 1749 "Act Concerning Servants and Slaves," when the fine for such actions was reduced from sixty to thirty pounds) her husband would have been owed for every day William Frye was gone, but most likely would have faced an even harsher punishment for aiding in his escape and hoping to marry him. Fear of free persons entertaining or harboring servants was only one concern the courts had. A potentially greater concern—because it happened much more frequently--was that of servants working together to resist, and in these cases, escape their condition.[29]

Some servants seem to have believed that they might have a better chance of escaping bondage for good if they ran away in concert with other servants. While it was probably easier for the community to be on the lookout for a group of servants rather than just one, those who conspired to run away probably pooled their resources and created a possible web of networks of free and bound persons willing to aid them in their escape. It is also plausible that all of them were just desperate to run away and that they were not as concerned with how that happened. Sometimes servants running away as a group lived

[29] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Sections XV and XXI , *Hening's Statutes at Large*, III, 451–52, 454–55; "An Act Concerning Servants and Slaves (1748)," Chapter XIV, Section XIII, *Hening's Statutes at Large*, V, 551–52; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Sections X and XVI, *Hening's Statutes at Large*, VI, 359–60, 362.

and worked for the same master and sometimes they did not. The details of the ads placed by masters in the Virginia *Gazette* varied because the information they offered was specific to each escaped servant, what they took with them, who might be with them, and sometimes, where they intended to go. Also variable from ad to ad was the reward the master was willing to give for the recovery of his or her servant. What holds true regardless of who was actually running away, be they slave or servant, is that unfree laborers attempted to escape to freedom throughout the eighteenth century, and despite the large number of both servants and slaves that appeared before the Virginia county courts for having been taken up and returned to their masters, these laborers still believed that freedom, even at the risk of being caught, was more important than remaining bound and enduring the mistreatment, ill-usage, and exploitation they likely suffered at the hands of their masters.

A large number of servants worked together and attempted to escape their bondage and gain freedom during the eighteenth century throughout Virginia. One of the earliest cases involved Robert Croson, a Virginia-born servant, and a servant man belonging to Mr. Geddy. According to William Wyatt (Croson's master) Croson had been taken up by a free person in Charles City County but claimed that he was free. It is likely that he produced a forged certificate with which he "proved" his freedom to avoid being returned to Wyatt. Upon achieving freedom, servants were made to carry proof of their newly acquired condition with them at all times. Those certificates were then given to their employer—if they were able to find work once free—as a way to safeguard the employer from facing fines or accusations for the wrongful employment of someone else's bonded laborer. Croson—and possibly Geddy's servant—was able to avoid capture

by that Charles City County resident and remain free and on the run. Whatever untruth Croson offered the Charles City County resident was enough to keep him from getting caught. Croson, it appears, was not only able to resist his master through escape but also misguide and manipulate another free person. In a reversal of roles, Croson asserted his power and convinced an unsuspecting person of his freedom. The escape of servants took many forms, however, and at least two were forced to use violence in order gain their freedom.[30]

In 1745 Alexander Jamieson and John Skerum—two servants on an errand for their master—never returned to their service. Instead, they decided to run away, but their escape was a bit more complicated than taking a boat for which they had permission to use, because they killed someone in the process. David Galloway, the master of Jamieson and Skerum, laid out what he knew of the two servants and their actions while gone as a way to alert the community of their escape and of their barbarity. According to Galloway, Jamieson and Skerum, a weaver and a baker, respectively, murdered the skipper of the schooner on which they traveled and escaped with the boat and the goods on it. Jamieson,

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[30] Robert Croson and servant belonging to Mr. Geddy, 1736: Williamsburg Virginia *Gazette* (Parks), October 8–October 15, 1736; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg36.xml&adId=v1736101285. For a detailed discussion of freedom certificates see Chapter 5. See also "An Act Concerning Servants and Slaves (1705," Chapter XLIX, Sections XXI–XXII, *Hening's Statutes at Large*, III, 454–55; "An Act for Amending the Act Concerning Servants and Slaves; and For the Further Preventing the Clandestine Transportation of Persons Out of this Colony (1726)," Chapter IV, Sections XX–XXIII, *Hening's Statutes at Large*, IV, 173–75; "An Act Concerning Servants and Slaves (1748," Chapter XIV, Section XIII, *Hening's Statutes at Large*, V, 551–52; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, Section XVI, *Hening's Statutes at Large*, VI, 362–63. For other examples of servants running away together during the first half of the eighteenth century see William Bourk and Charles Murfy, 1737: Williamsburg Virginia *Gazette* (Hunter), May 13–May 20, 1737; see also http://www2.vcdh.virginia.edu/gos/countyRecords/relatedAd.php?adFile=rg51.xml&adId=v1751050083; Bryan Kelly and W. Barber, 1737: Williamsburg Virginia *Gazette* (Parks), August 26–September 2, 1737; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg37.xml&adId=v1737081303; John Thompson and John Macey, 1738: Williamsburg Virginia *Gazette* (Hunter), August 25–September 1, 1738; see also http://www2.vcdh.virginia.edu/gos/countyRecords/relatedAd.php?adFile=rg51.xml&adId=v1751050083 and http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg38.xml&adId=v1738091335;

it seems, had previous experience as a sailor, and so would most likely attempt to present himself as such if approached. Galloway's ad was a warning to the surrounding community as well as to shipmasters to make sure they examined their crew before leaving shore. He wanted Jamieson and Skerum returned not only because they owed him more time but also to face conviction for having murdered the skipper, Tobias Horton. Jamieson and Skerum went well beyond the majority of other servants who escaped their bondage. Their killing of Horton in order to gain their freedom appears to have been an act of desperation. It is likely that they might have eventually violently resisted their master had they remained in service to him. They seem to have been willing to run away no matter the cost. If caught, though, they would face death instead of a several weeks or months of extra service, a risk they probably acknowledged when plotting their escape. This case is anomalous among numerous others that involve servants working together to flee their masters and most likely their condition, but it does illustrate the lengths to which some servants would go to gain freedom. Servants continued to run away in less violent manners into the late eighteenth century in the hopes of freeing themselves from their temporary bondage.[31]

A number of servants collaborated to escape during the revolutionary era. At a time when tensions between the British and the American colonies were escalating, servants might have believed not only that they would then have an easier time escaping, as their masters were potentially preoccupied with the increasingly harsh acts implemented by King George III and Parliament, but also that they had a better chance of remaining free. James Patterson and Robert Hobday, an apprentice, ran away in

[31] Alexander Jamieson and John Skerum, 1745: Williamsburg Virginia *Gazette* (Parks), September 19–September 26, 1745; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg45.xml&adId=v1745091391.

November 1763, while three young apprentices ran away from their masters in 1767. William Bolton and Charles Winfree Chandler absconded in 1773, as did a group of six servants. The master of Bolton and Chandler offered two very different rewards for the recovery of his two servants. The person who took up Chandler was promised twenty shillings, and whoever recovered Bolton was to receive "one handful of shavings." Their master was not very concerned with the return of Bolton who, based on the reward offered for his return, might have been a troublesome servant not worth keeping through the end of his term. Bolton was described as both "clumsy" and of "sour countenance," and he was apparently not worth the time or money it might take in recovering him. The group of six servants who ran away from their service to Sampson Matthews and George Matthews included three convict servants—all skilled tradesmen—and three servants (including a husband and wife). Three of these servants had been absent for several months but appear to have remained in contact with the recently absent convict servants. And since the ad was published by Sampson and George Matthews, it is likely that the two were related and lived in close proximity to one another, which would have allowed their servants opportunities to communicate. Several groups of servants ran away in 1775, but only one servant, escaping alone, was thought to have gone to join Lord Dunmore after he issued his proclamation in November 1775 promising freedom to any servant or slave who joined with him to fight against the colonists.[32]

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[32] James Patterson and Robert Hobday, 1763: Williamsburg Virginia *Gazette* (Royls), November 4, 1763; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg63.xml&adId=v1763111533; James Axley, William Arter, William Kindrick, 1767: Williamsburg Virginia *Gazette* (Purdie & Dixon), April 2, 1767; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg67.xml&adId=v1767041552; William Bolton and Charles Winfree Chandler, 1773: Williamsburg Virginia *Gazette* (Rind), March 18, 1773 (quotations); see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg73.xml&adId=v1773031854; John Richardson, Joseph Keeves, Richard Bennett, John Eaton, Alice Walker, and William Steel, 1773:

There is no evidence that any of these servants who worked together in their resistance were ever taken up, but it is likely that those who escaped in larger groups might have been more identifiable as servants and less likely to blend in as free persons. These servants, though, were willing to risk capture in order to escape their bondage, even if that freedom was fleeting. Even a few days or weeks might have been enough time for some servants to endure the rest of their bondage and give them an opportunity to experience freedom, however brief. Servants, however, were not the only bonded laborers in want of freedom, and it is possible that those who were perpetually bound desired it even more. And in some cases servants and slaves worked together to escape to freedom, which appears to have been a greater concern for masters because not only did they risk losing their temporary laborers but also those they had bound for life.

Laws that specifically addressed servants who ran away with slaves only appear during the seventeenth century. The first law addressing the issue was created in 1661 and the second in 1662. One possible reason for this, as some scholars have argued, is that after Bacon's Rebellion and the institution of stricter laws, there was no need to worry about servants and slaves working in concert with one another due to a general solidarity between all whites, regardless of class or status. The courts might have benefited from continuing to punish those servants and slaves who ran away together

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Williamsburg Virginia *Gazette* (Purdie & Dixon), August 12, 1773; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg73.xml&adId=v1773081832; Baker Fullam, 1775: Williamsburg Virginia *Gazette* (Purdie), December 1, 1775; see also www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg75.xml&adId=v1775122034W. For ads of servants running away in 1775 see, for example, John Fleming and George Wassill, 1775: Williamsburg Virginia *Gazette* (Purdie); see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg75.xml&adId=v1775062014; John Stanton and Andrew Mackgill, 1775: Williamsburg Virginia *Gazette* (Pinkney), July 20, 1775; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg75.xml&adId=v1775071993. For a transcription of Dunmore's Proclamation see www.virginiamemory.com/docs/Dunmores Proclamation.pdf.

more severely, as the evidence suggests that at least on a few occasions servants and slaves did work together to run away. Those earlier laws stated that any "English servant" who ran away in the company of slaves was required to "serve for the time of the said negroes absence as they are to do for their owne." That time, it seems, was to be served to the slave's master and not their own, if it so happened that the two did not run away from the same household or plantation. Because slaves were perpetually bound, adding time to their bondage was not an option; therefore any white servants who worked together with slaves to escape were required to serve even more time than if they had run away either on their own or with fellow servants. Just a year later, in 1662, the law added punishments in case the slave died or was not recovered with the servant. If that happened the servant was made to serve the lost or dead slave's master for four years or pay him 4,500 pounds of tobacco. If more than one white servant was involved, the time was split proportionately between or among them. Two white servants would have both served two years for one lost or dead slave but would have served four years each for two lost or dead slaves. Again, what is interesting here is that 1661 and 1662 are the only two times this law, or any law like it, appear. It is possible that either instances where servants and slaves absconded together were so few that it was no longer worthwhile to keep the law on the books, or that by the eighteenth century there was such a clear distinction between servants and slaves—at least in the minds of Virginia planters—that it seemed unlikely that they would work together to escape their bondage. Moreover, the justices might have believed that fewer masters owned both servants and slaves, so the likelihood of collusion was small. But cases of servant women having mulatto children persisted throughout the eighteenth century, and laws against such unions remained; therefore, to

think that sexual relationships could and did occur but collusive relationships to resist masters did not seems illogical. And while evidence of one case does not suggest widespread collusion between servants and slaves, it does suggest that servants and slaves at least on occasion did plot to escape together. It must also be considered that only those servants and slaves who were eventually caught appeared before the courts for punishment, so it is likely that others were successful in their escapes.[33]

During the mid-eighteenth century in Accomack County, Virginia, a county on the colony's Eastern Shore, Tabitha Shavers and Hamlot Robinson—two mulatto servants—and three enslaved men named Dollar, Greenock, and James, and an enslaved woman named Pleasant, engaged in various felonious acts and attempted to run away from their masters. According to an ad placed in the Virginia *Gazette* on May 24, 1751, the escape went as follows: Dollar and Greenock, the slaves of Robert King, ran away on May 14 in the company of two of James Pettigrew's bonded laborers—James, a slave, and Tabitha Shavers, a mulatto servant—and a young mulatto servant and enslaved woman belonging to William Andrews. The young mulatto boy was Hamlot Robinson, and the enslaved woman was Pleasant. In total this group of runaways consisted of four slaves and two mulatto servants who, according to the ad, were armed with guns and had broken into a number of houses and committed various felonies, including having stolen a canoe. They intended on taking either that canoe or a larger vessel across the Chesapeake Bay. Anyone who apprehended these six runaways was promised various rewards from the respective masters of these servants and slaves, and the masters made clear that residents of both Virginia and Carolina should be on the lookout for this rather

[33] "English Running Away with Negroes (1661)," Act XXII, *Hening's Statutes at Large*, II, 26 (quotation); "Run-aways (1662)," Act CII, *Hening's Statutes at Large*, II, 116–17.

large group of runaways. The ad was successful, most likely with the help of various colonists who hoped to gain a reward for the capture of these servants and slaves. All six were committed to the county jail to await trial, which occurred shortly after they were caught.[34]

Based on the testimonies of both Shavers and Robinson, they took a canoe belonging to James Pettigrew, the master of Shavers and one of the enslaved men, rode in that canoe out to an island in the Chesapeake Bay, found a boat in the bay, and traveled in that to what Shavers referred to as "the Sea Side." There, they found another boat belonging to Abel Upshur and probably intended to travel up or down the eastern seaboard and out of their temporary and perpetual bondage to freedom. Before traveling to the island in the Chesapeake Bay, Dollar, Greenock, and James broke into a nearby home and stole some bacon and then broke into a mill and stole meal. Shavers brought with her a pot, a milk bucket, and a gown and handkerchief, all most likely stolen. The runaways were caught in Upshur's boat and taken immediately to jail. Both Shavers and Robinson were discharged of the felony charges against them; the rest were set to stand trial at a court of oyer and terminer, a special court commissioned by the governor for specific offenses; in this case it involved cases of slaves charged with capital offenses. Dollar and Greenock were charged with feloniously breaking and entering a meat house and stealing bacon; Dollar—along with James—was also charged with breaking and

[34] Tabitha Shavers, Hamlot Robinson, Dollar, Greenock, James, and Pleasant, 1751: Williamsburg Virginia *Gazette* (Hunter), May 24, 1751. See also http://www2.vcdh.virginia.edu/gos/countyRecords/relatedAd.php?adFile=rg51.xml&adId=v1751050083.

entering Joshua Rigg's mill and stealing meal; and Pleasant was charged as an accessory to these felonies.[35]

At the court of oyer and terminer only Greenock and Pleasant were directed to stand trial. It is unclear why or how James was exonerated, but since he and Tabitha Shavers, who had the charges against her dismissed by the county court, had the same master, it is possible that either Shavers or James Pettigrew (their master) spoke in his behalf and had him excused from the court of oyer and terminer. It is also unclear why Dollar was not present. After examination by the court, Greenock was found guilty of stealing meat from John Hall's meat house but not for breaking and entering or for running away. No charges were brought against Greenock for the taking of the meal or the canoe or for the attempted escape. He was ordered to receive twenty-five lashes, be burned on the hand, and be put in the pillory for a quarter of an hour with his ears nailed to the post. Pleasant was ordered to receive twenty-five lashes at the whipping post. Greenock and Pleasant were the only slaves physically punished for what seemed to be a well-laid plan involving both servants and slaves. In addition, Greenock was only punished for the theft of some bacon, which, according to the record, was valued at approximately twenty shillings, but not for running away or for having guns or stealing a

[35] Tabitha Shavers and Hamlot Robinson, Accomack County, 1751: Accomack County Order Book, reel 82 (microfilm), Library of Virginia, Richmond, Virginia, page numbers unknown. See also http://www2.vcdh.virginia.edu/gos/countyRecords/countyIndividualRecord.php?county=accomack&year=1751&display=record&record=1 (quotation); http://www2.vcdh.virginia.edu/gos/countyRecords/countyIndividualRecord.php?county=accomack&year=1751&display=record&record=2; http://www2.vcdh.virginia.edu/gos/countyRecords/countyIndividualRecord.php?county=accomack&year=1751&display=record&record=3; http://www2.vcdh.virginia.edu/gos/countyRecords/countyIndividualRecord.php?county=accomack&year=1751&display=record&record=5; Hugh F. Rankin, *Criminal Trial Proceedings in the General Court of Colonial Virginia* (Williamsburg: Colonial Williamsburg, 1965), 46.

canoe, and possibly two other boats, during his absence. And Pleasant was punished only for stealing one shilling's worth of goods.[36]

Pleasant and Greenock most likely avoided punishment for their attempted escape because they were enslaved. Because slaves could not serve extra time, the courts might have believed it was not worth it to punish them for their attempt. According to law, Tabitha Shavers and Hamlet Robinson could have been made to serve the time Dollar, Greenock, James, and Pleasant were absent, but it appears as though the court, at least in this case, viewed their theft to be the more serious crime. Unlike the slaves involved in this case, most servants who were accused of both stealing and running away were often punished for having absconded and not for the goods they stole. For example, Eliza Ellerker stole from her master in 1714 before running away. Once taken up and presented before the court, Ellerker was made to serve six additional months for her forty-two day absence and whatever amount of tobacco her master spent in recovering her.[37]

The different punishments doled out by the courts to thieving servants who also ran away and slaves who did the same does indicate a clear split between servitude and slavery in eighteenth-century Virginia. Other differences are also clear: the temporary terms of servants, their ability to complain in court against their masters, and the racial difference between these two work forces. Racial slavery was prevalent and dominant in colonial Virginia, and there was a clear delineation, for the most part, between "white" and "black." This delineation, however, did not always translate into "free" and "unfree,"

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[36] Dollar, Greenock, and Pleasant, Accomack County, 1751: Accomack County Order Book, reel 82 (microfilm), Library of Virginia, Richmond, Virginia, page numbers unknown. See also http://www2.vcdh.virginia.edu/gos/countyRecords/countyIndividualRecord.php?county=accomack&year=1751&display=record&record=5.

[37] Eliza Ellerker, York County, 1714: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 368.

and there were white servants clearly unhappy with their condition and the way they were treated who attempted to resist the power of their masters and their own powerlessness by escaping from their bondage. While it might not have always been fair for them to refer to themselves as slaves, like George Fitch did in 1700, they felt they were unfairly treated despite many of them having volunteered to enter servitude and knowing that they were being treated as such because of their (temporary) condition and not because of their race.

There are a number of interesting twists and turns in the case involving Tabitha Shavers and Hamlet Robinson, two mulatto servants, as well as a plethora of unanswered questions, but for the intents and purposes of this discussion, what seems most in need of attention is the fact that six bonded laborers conspired together to run away from their respective masters. This group of six included not only slaves but also servants, but neither Tabitha Shavers nor Hamlot Robinson was white; they were both indentified as mulatto in the ad published in the Virginia *Gazette*. Both Shavers and Robinson were servants; therefore, according to Virginia law, their mothers were not slaves, or else they too would have been slaves. Instead, their own mothers might have been white or mulatto servants who became involved—either by force or by consent—with enslaved men and became pregnant. So, by law, Shavers and Robinson would have been required to serve until they were thirty-one, and their mothers were most likely bound to serve an additional five years for having had them. Tabitha Shavers and Jack, one of the runaway slaves, belonged to James Pettigrew, and Robinson and Pleasant belonged to William Andrews. These two masters, along with the master of Dollar and Greenock, Robert King, probably lived in close proximity to one another, which might have given their servants and slaves the opportunity to at least communicate with one another regarding

their plan for escape. It also appears as though Shavers and Robinson were the two youngest members of the group. Shavers was described as "young," and Robinson as "about 7 Years old." Again, there are many questions that will remain unanswered regarding the motivations of these servants and slaves and their reasons for coming together instead of running away alone. While it might seem curious as to why Jack, Dollar, Greenock, and Pleasant included Shavers and Robinson in their plot, it is likely that Shavers and Robinson asked to be a part of it, or that the four slaves believed it might help them to have two servants with them. It is possible that Shavers and Robinson were being mistreated by their masters, and despite their being identified as servants by law and before the courts, they were both bound until they were thirty-one, which meant that their condition of bondage, while not perpetual, was long, and it was a bondage that unlike that of indentured servants, customary servants, or apprentices, they did not choose. They were born into it. And regardless of the unanswered questions and the intricacies of the case, these six servants and slaves related to each other in such a way that they were willing to risk not only corporal punishment but also hanging in order to escape their masters. They shared a common experience despite the differences in their bondage. This bond was probably not the only one shared based on condition but also based on race. And it is likely that because of the color of their skin, Shavers and Robinson were treated much more like slaves than they were like servants, which allowed them to form relationships and relate to their enslaved counterparts and attempt to run away with them.[38]

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[38] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section XVIII, *Hening's Statutes at Large*, III, 452–53; "An Act Directing the Trial of Slaves, Committing Capital Crimes; and For the More Effectual Punishing Conspiracies and Insurrections of Them; and For the Better Government of Negros, Mulattos, and Indians, Bond or Free (1723)," Chapter IV, Section XXII, *Hening's Statutes at Large*, IV,

Although this case involving the collusion of mulatto servants and black slaves does not necessarily allow us to assume that all servants, regardless of race, and slaves shared an unfreedom that caused them to commiserate or work together to resist, it does suggest that in some households servants and slaves did identify more with one another than did servants with their white masters. Other evidence, especially that regarding violence, ill-usage, and the exploitation of servants even after their contracts were expired, clearly indicates that some white masters most certainly did not view their servants as soon-to-be free persons with whom they would live alongside and socialize with, but instead as another exploitable labor force, regardless of the temporality of the condition.

On the same day that Shavers's felony charges were dismissed, her master James Pettigrew complained about some unspecified misbehavior—most likely her collusion with slaves and their attempt at running away—and for this misbehavior Shavers received thirty lashes at the public whipping post. Shavers it seems did receive some punishment for her actions despite being relieved of the charges of felony, but Robinson—only seven years old—never received any punishment. And because neither Shavers nor Robinson seem to have gone before the court for having run away, neither of them were made to serve additional time to make up for their absence or the absence of the slaves with whom they attempted to escape. Their punishments, though, probably came once they arrived back in the custody of their masters. All six of the servants and slaves involved were probably made an example of in front of the rest of their masters' bonded labor force and beaten—although perhaps not the child Robinson—not only for their actions but also for

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133. Tabitha Shavers, Hamlot Robinson, Dollar, Greenock, James, and Pleasant, 1751: Williamsburg Virginia *Gazette* (Hunter), May 24, 1751. See also http://www2.vcdh.virginia.edu/gos/countyRecords/relatedAd.php?adFile=rg51.xml&adId=v1751050083.

having challenged the power of their masters. A number of other white servants and slaves did run away together, which, again, suggests that they often worked alongside one another for their masters or came into contact with bonded laborers on neighboring or nearby plantations and experienced similar hardships and mistreatment while bound. While it seems that a group of servants and slaves might be more likely to be caught than if they ran away alone, a small group might have more connections beyond the households for which they labored, which might have aided them in their flight. It is also possible that these servants and slaves intended to work together during the initial days of their escape and separate once they were free. And based on the ads published in the Virginia *Gazette,* it does not appear as though servants and slaves were less inclined to run away together as the eighteenth century wore on, which suggests that on some plantations servants and slaves continued to find common cause with each other, as opposed to servants finding common cause with their white masters with whom, it has been argued, they share more in common.[39]

Servants and slaves ran away in groups as big as six, like that including Tabitha Shavers and Hamlot Robinson, and as small as two. The Virginia *Gazette* ads announcing their absence from the homes and plantations of their masters often failed to suggest reasons or motives for the flight of their bonded laborers but are not short on the details of what these servants and slaves looked like and what they took with them. Some even suggested where they might be headed as a way to tell the people in those regions to be on the alert. It is important to remember that anyone taking up a runaway servant or slave

[39] Tabitha Shavers, Accomack County, 1751: Accomack County Order Book, reel 82 (microfilm), Library of Virginia, Richmond, Virginia, page numbers unknown. See also http://www2.vcdh.virginia.edu/gos/countyRecords/countyIndividualRecord.php?county=accomack&year=1751&display=record&record=4.

was rewarded for their service and given between one hundred and two hundred pounds of tobacco, depending on how far away the servant or slave was found from the home of his or her master. Runaways, then, became not only the concern of their masters but also of the larger community, and while there were those willing to bargain with, trade with, and even aid bonded laborers in their escape, the majority of free persons were willing to work together to recover runaways, and, in the case of servants, extend their bondage beyond their initial contracts as a way to remind them of their powerlessness as well as their condition.

Servants and slaves ran away together throughout the eighteenth century in an attempt to gain their freedom and challenge the authority of their masters and their servile condition, whether it was temporary or permanent. Cornelius Maddin, an Irish servant, and "an outlandish Negro man" named Phil ran away from Captain Dudley in February 1739. Dudley did not provide any information as to where they might have been headed or why they ran away, but he did offer a reward above what was guaranteed by law to whoever returned them to his service. Several months later Daniel Young—a convict servant and a shoemaker by trade—ran away in the company of Harry, a slave belonging to Edgcomb Suggit. They took with them a canoe to aid in their escape. Daniel Hornby, Young's master, offered an additional five pound reward for the recovery of his servant while Suggit offered a pistole reward for his slave. Despite the community-wide effort to recover runaways masters hoped for by posting an ad, Hornby and Suggit both posted their ads separately, indicating that ultimately they were most concerned with the return of their own bonded laborers and not those of their fellow landholder. Two other masters published a joint ad announcing the escape of their servant and slave in August 1739.

Thomas Macoun and Robin escaped from their masters Major John Waughhop and Robert Chelsey in August 1739. These masters put out an alert not only in Virginia but also in the surrounding colonies in order to ensure the return of their laborers. They also offered a six pistole reward.[40]

Other servants and slaves ran away in larger groups, but none as large as the group with whom Tabitha Shavers and Hamlot Robinson planned and ran away. John Hardwick, William Hatter, Edward Hatter, and Frank appear to have belonged to the same master, John Aylett, and worked together to escape their bondage. John Hardwick was described as a blacksmith and William and Edward Hatter as shoemakers. Both Hatters were new arrivals to Virginia, but Hardwick had been in the colony for three years, and Aylett described him as "a very great Rogue" and appears to have put most of the blame for the escape of these four men on Hardwick. It also seems as though Aylett was willing to forgive the shoemakers for their escape but was willing to let Hardwick "have what the Law directs," which would have most likely included a whipping by every constable whose hands he passed through in addition to whatever punishment Aylett had in store for him once he returned to his service. Another group of four servants and slaves ran away in 1751, and included three servants—two men and one woman—and a slave man. The woman, Anne Harris, was pregnant; therefore, she might have been doubly motivated to escape her bondage. By running away not only did she intend to put

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[40] Cornelius Maddin and Phil, 1739: Williamsburg Virginia *Gazette* (Parks), February 2–February 9, 1739 (first quotation); see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=rg39.xml&adId=v1739020023; Daniel Young and Harry, 1739: Williamsburg Virginia *Gazette* (Parks), May 4–May 11, 1739; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=rg39.xml&adId=v1739050025 and http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg39.xml&adId=v1739051356; Thomas Macoun and Robin, 1739: Williamsburg Virginia *Gazette* (Parks), August 10–August 17, 1739; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=rg39.xml&adId=v1739080030.

an early end to her service (or escape the mistreatment or ill-usage of an abusive master) but she also avoided, or at least hoped to avoid, the additional year of service she would receive for having had a bastard child. Moreover, if that child was mulatto, she faced six more years of service. Like John Aylett, Jacob Andrew Minitree hoped to have these runaways returned as soon as possible and offered a ten pistole reward in hopes of their quick recovery.[41]

These servants working in concert with slaves most often outnumbered the enslaved members of their group. It is possible that if caught or questioned, one of the white servants would pretend to be a slave-owning free person. Regardless of what might have happened when confronted, servants and slaves worked together to escape their bondage. They were willing to risk capture and punishment not only for themselves but also for the others within their group, black or white. It is possible that in cases like that involving John Hardwick, William Hatter, Edward Hatter, and Frank, they were all treated in such a manner that it was worth a risk to attempt to escape to freedom. And while there are not many cases of servants and slaves absconding together, they do persist throughout the eighteenth century.

Groups of servants and slaves continued to run away together even as the American Revolution neared. An enslaved man named Charles absconded with a white servant in an oyster boat in November 1775. Charles's master, Robert Brent, like many other masters, tried to guess where his slave was going and with whom. He believed that

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[41] John Hardwick, William Hatter, Edward Hatter, and Frank, 1739: Williamsburg Virginia *Gazette* (Parks), June 8–June 15, 1739; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=rg39.xml&adId=v1739060027; Thomas Long, Patrick Donahow, Anne Harris, and Cooper, 1751: Williamsburg Virginia *Gazette* (Hunter), March 7, 1751; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=rg51.xml&adId=v1751030078.

Charles and the white servant belonging to Andrew Leitch intended to "get to lord Dunmore" and claimed that Charles's desire to fight for the British and gain his freedom was not because of any ill-treatment he received by Brent. The white servant most likely intended much the same, as Dunmore's proclamation, issued only days before the flight of Charles and Leitch's white servant, included a call for both servants and slaves to join him and upon doing so becoming free. Two other servants and a slave were also assumed to have joined Dunmore's army in November 1775, based on information given by their master that one of the servants, Charles White, "ha[d] been heard to say some atrocious things in respect to the dispute between Great Britain and the colonies."[42]

In these cases during the late eighteenth century, the motivations of servants and slaves were similar to those who escaped or attempted to escape earlier in the century. The only difference being that those who ran away to join Dunmore's army were guaranteed their freedom, whereas those who attempted to leave Virginia for Maryland or Carolina or stole a boat or canoe in order to aid in their escape only hoped to gain theirs. Running away was not a guarantee that freedom could be attained or maintained for very long, but what it did do was provide some servants and slaves a small moment of freedom in which they had control over their own lives and were able to make decisions for themselves. Moreover, by running away these servants deprived their masters of their

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[42] A white servant and Charles, 1775: Williamsburg Virginia *Gazette* (Pinkney), November 16, 1775; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=rg75.xml&adId=v1775111278. Charles White, James Leighton, and Will, 1775: Williamsburg Virginia *Gazette* (Pinkney), November 23, 1775; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=rg75.xml&adId=v1775111279. For other groups of servants and slaves running away together see Alexander Fullerton, John Past, and enslaved man, 1751: Williamsburg Virginia *Gazette* (Hunter), July 18, 1751; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=sg51.xml&adId=v1751071444; William Cantwell, Joseph Wain, and Temple, 1766: Williamsburg Virginia *Gazette* (Purdie & Co.), June 6, 1766; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=rg66.xml&adId=v1766060179; George Pitt, Henry Valentine, and Jac, 1768: Williamsburg Virginia *Gazette* (Rind), August 25, 1768; see also http://www2.vcdh.virginia.edu/gos/search/relatedAd.php?adFile=rg68.xml&adId=v1768080280.

labor, if even for a short time. In many cases these decisions led them back into servitude and kept them in bondage longer than they would have been had they just served out their term and gained their freedom, but, it might have been worth it. It gave them the opportunity to express their displeasure for their condition and the way their masters treated them, masters who sometimes were not much higher on the social ladder than their servants.

What makes those servants who resisted through thieving and running away interesting, though, are two things. First, that their masters hunted them down much like the enslaved, putting out announcements in newspapers and putting entire counties on alert and offering incentives for catching and returning runaway servants. And second, that so many servants were willing to work with one another and sometimes with the enslaved to gain their freedom and quite possibly their humanity. Some servants were unable to wait until the end of their contracts to gain the freedom that was guaranteed to them by law. Maybe they feared or knew that their masters might, in some way, inhibit their freedom even then. As will be illustrated in the next chapter, denying servants freedom dues was also not uncommon in eighteenth-century Virginia.

# CHAPTER 5
# ON THE VERGE OF FREEDOM: POWER AND POWERLESSNESS AT THE END OF THEIR TERMS

Before 1705 the practice of giving servants freedom dues at the end of their service was not written into Virginia law. In fact, the only law that mentioned dues or provisions of any sort was enacted in 1677 and limited a master's ability to bargain with his or her servant "for such servants cloathes, corne or otherwise." While giving freedom dues was considered "a good and laudable custom," masters were not lawfully required to provide their servants with anything but their freedom at the end of their term. That, however, was rare, and most servants in the seventeenth century received, at the very least, corn and clothes, with some also receiving land; but land was scarce by the end of the seventeenth century, and servants' opportunities for access to it were virtually non-existent. By the early eighteenth century male servants, by law, were to receive "ten bushels of indian corn, thirty shillings in money, *or the value thereof,* in goods, and one well fixed musket or fuzee [a small musket], of the value of twenty shillings, at least," and female servants were to be given "fifteen bushels of indian corn, and forty shillings in money, *or the value thereof*, in goods." What was deemed by law was not always followed, and masters and the courts often gave servants what they felt was fair or necessary to survive, not what was lawful, acting on custom rather than following statutory law. Although legally bound, masters still had some leeway in what they gave their newly freed servants, due to the "or the value thereof" caveat at the end of the law;

therefore, even during the eighteenth century freedom dues varied, but servants received some form of compensation for their service, either outright or through a court petition.[1]

Like all free men between the ages of sixteen and sixty, male servants, once free, were required by law to join Virginia's militia. It must be noted that the age at which men were made to enlist changed several times during the eighteenth century. The musket or fuzee mentioned as part of their freedom dues would have readied former servants for militia service, had it ever been part of the provisions they received, but no existing records indicate that any freed male servants received much beyond corn and clothes at the end of their service. What is most interesting, though, is not that this provision was written into law and often trumped by custom, but that less than thirty years after Bacon's Rebellion, Virginia law stated that servants could be issued weapons at the close of their terms. This, however, was not an indication of their *equality* to their white counterparts, but it was, most certainly, an indication of their *whiteness*. But this advantage did not take place until after they were freed from bondage and essentially free persons; therefore

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[1] "An Act Lymiting Masters Dealing with Their Servants (1677)," Act VII in William Waller Hening, *The Statutes at Large: Being a Collection of all the Laws of Virginia from the First Session of the Legislature, in the Year 1619* (13 vols.; Richmond: R. & W. & G. Bartow, 1819–1823), online edition, transcribed by Freddie L. Spradlin for vagenweb.org (hereafter *Hening's Statutes at Large*), II, 388 (first quotation); "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, *Hening's Statutes at Large*, III, 447–62, quotation on p. 451 (second quotation); Bernard Bailyn, *Voyagers to the West: A Passage in the Peopling of America on the Eve of the Revolution* (New York: Vintage Books, 1988), 167; Richard B. Morris argues that land was not given to servants after 1627, while others contend that land did not become scarce until later and was a catalyst for Bacon's Rebellion in 1676. See Morris, *Government and Labor in Early America* (1946; New York: Harper and Row, 1965), 395, 397. For a discussion of the causes and effects of Bacon's Rebellion, see Edmund S. Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York: W. W. Norton and Company, 1975); Stephen Saunders Webb, *1676: The End of American Independence* (1st ed., New York: Knopf, 1984). Abbot Emerson Smith also claims the absence of land as part of the dues of Virginia's servants. See Smith, *Colonists in Bondage: White Servitude and Convict Labor in America, 1607–1776* (Chapel Hill: University of North Carolina Press, 1947), 241; "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, *Hening's Statutes at Large*, III, 447–62, (third and fourth quotations on p. 451). Italics added for emphasis. Fuzee (also spelled fuse), *Oxford English Dictionary Online*, s.v. "Fuzee," accessed October 24, 2012, http://www.oed.com/view/Entry/75767?rskey=RpxIbf&result=1#eid; James Horn, *Adapting to a New World: English Society in the Seventeenth-Century Chesapeake* (Chapel Hill: University of North Carolina Press, 1994), 269.

their whiteness only became an advantage after they had completed their terms as bonded laborers. Slaves were prohibited from owning firearms; and free blacks, Indians, and mulattoes were only allowed to serve in the militia as drummers and trumpeters, unless the colony was being invaded or a rebellion was taking place, at which time they could march with the militia but only perform servile tasks. By giving servants a gun at the end of their term, or by leaving that opportunity open, the law recognized freed servants as free men, but because custom was often the rule of the day, most servants left their temporary bondage with little more than corn and clothes. Therefore, despite the law's allowance and recognition of servants as free persons within the community once they served out their terms, the county courts and their now former masters continued to see them as bonded laborers and not as equals in a society in which land, wealth, and power played a significant role.[2]

According to law, female servants received more corn and more money or goods than did men. Although, since the musket to be issued to men was worth at least twenty shillings, the provisions they received, in total, was worth more than those to be given to women. It is possible that the law required masters to give female servants more corn and more money to compensate for them not receiving a musket or fuzee at the end of their

[2] In 1705 free men between sixteen and sixty were required to join the militia. The age range was then changed to require free men between twenty-one and sixty in 1723, but in 1738 the law simply stated that free men over twenty-one were to join. Again, in 1757 the age ranged changed to include free men between the ages of eighteen and sixty. "An Act for Settling the Militia (1705)," Chapter XXIV, *Hening's Statutes at Large*, III, 335; "An Act for Settling and Better Regulation of the Militia (1723)," Chapter II, *Hening's Statutes at Large*, IV, 118; "An Act for the Better Regulation of the Militia (1758)," Chapter II, *Hening's Statutes at Large*, V, 16; "An Act for the Better Regulating and Disciplining the Militia (1757)," Chapter III, *Hening's Statutes at Large*, VII, 93. For laws prohibiting slaves from carrying firearms see, Laws of Virginia, 1640, Act X, *Hening's Statutes at Large*, I, 226; "An Act for Preventing Negroes Insurrections (1680)," Act X, *Hening's Statutes at Large*, II, 481; "An Act Directing the Trial of Slaves, Committing Capital Crimes; and for the More Effectual Punishing Conspiracies and Insurrections of Them; and for the Better Government of Negros, Mulattoes, and Indians, Bond or Free (1723)," Chapter XV, Section XIV, *Hening's Statutes at Large*, IV, 131.

terms. Also, by the eighteenth century, female servant numbers were low, most worked within the household, and masters may have assumed that these women, once free, would quickly marry and no longer have to provide for themselves but would use their dues to supplement, rather than support, their family.

Freedom dues, the so-called reward at the end of years of bound labor, were supposed to sustain a former servant for about one year while they established themselves as a free person, and the promise of provisions and the possibility of land at the end of their service was often the incentive for becoming a servant. The promise of land, though, was often just a ploy to get servants to the colonies, as evidenced by those servants who participated in Bacon's Rebellion and demanded land, even that belonging to their Indian neighbors. And with only a meager amount of corn and clothes at the end of their contracts, most servants were unable to buy land. Even if servants could afford a small plot of land, by the eighteenth century uninhabited land in counties like York was rarely available for recently freed servants with limited provisions and no established occupation. To gain access to land, servants most likely had to leave York County—and often the Tidewater—for more newly established counties in the west (like Augusta County), or move to frontier land, or move out of the colony altogether.[3]

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[3] For a discussion of Bacon's Rebellion, see Morgan, *American Slavery, American Freedom*; James D. Rice, *Tales from a Revolution: Bacon's Rebellion and the Transformation of Early America* (New York: Oxford University Press, 2012). For a discussion freedom dues as incentive or propaganda see Richard Hofstadter, *America at 1750: A Social Portrait* (New York: Alfred A. Knopf, 1971), 59; David W. Galenson, "British Servants and the Colonial Indenture System in the Eighteenth Century," *Journal of Southern History*, 44 (February 1978(, 41–66, 54; Hilary McD Beckles, *White Servitude in and Black Slavery in Barbados, 1627–1715* (Knoxville: University of Tennessee Press, 1989), 140; David W. Galenson, "The Settlement and Growth of the Colonies: Population, Labor, and Economic Development," in Stanley L. Engerman and Robert E. Gallman, eds., *The Cambridge Economic History of the United States. Volume I. The Colonial Era* (Cambridge: Cambridge University Press, 1996), 135–207, esp. 155. For examples of what servants might receive as freedom dues see Marcus Wilson Jernegan, "Economic and Social Influence of the Indentured Servant," in Marcus Wilson Jernegan, *Laboring and Dependent Classes in Colonial America, 1607–1783, Studies of the Economic, Educational, and Social Significance of Slaves, Servants, Apprentices, and Poor Folk* (Chicago: University of Chicago Press, 1931), 45–56, esp. 51;

While the guarantee of land at the end of a servant's term was rare, it was not out of the question in those colonies that were more recently founded and still in need of colonists and labor. Thomas Morris signed a contract with John Taylor, a chapman in London, in September 1733, to serve Taylor or his assigns in Georgia or Carolina for four years. At the end of his indenture, he was promised twenty-five acres of land on the plantation on which he worked. This guarantee was handwritten at the bottom of his contract. James Noble, a servant sent to Georgia by John Taylor in October 1734, was guaranteed twenty acres at the end of his four years of service. It is improbable that these two servants were the only ones promised land at the end of their terms, although for others it was an expectation and not a guarantee that was written into their contracts. It is one thing to write it, however, and quite another to follow through. Servants were also promised basic provisions and a certain level of fair treatment while bound, and as has been discussed in previous chapters, this was not always the case. Regardless of whether Morris or Noble received the land, this promise of land was most certainly their incentive for agreeing to serve.[4]

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Morris, *Government and Labor in Early America*, 395;Bailyn, *Voyagers to the West*, 167; Christine Daniels, "Alternative Workers in a Slave Economy, Kent County, Maryland, 1675–1810" (Ph.D. dissertation, Johns Hopkins University, 1990), 327; Warren M. Billings, "The Law of Servants and Slaves in Seventeenth-Century Virginia," *Virginia Magazine of History and Biography*, 99 (January 1991), 45–62, esp. 51–52; Lawrence William Towner, *A Good Master Well Served: Masters and Servants in Colonial Massachusetts, 1620–1750* (New York: Garland Publishing, Inc., 1998), 29, 39. See also Smith, *Colonists in Bondage*, 238–40 for a list of freedom dues from various West Indian and North American colonies throughout the eighteenth century. For discussions of servants' social mobility once their contracts expired see Smith, *Colonists in Bondage*, 241; Beckles, *White Servitude and Black Slavery in Barbados*, 141; Jacqueline Jones, *American Work: Four Centuries of Black and White Labor* (New York: W. W. Norton & Company, 1998), 47.

[4] Agreements to Serve in America and the West Indies, 1727–1733, Memoranda, CLA/047/LR/05/01/002 and Agreements to Serve in America and the West Indies, 1734–1759, Memoranda, CLA/047/LR/05/01/003. None of the Virginia contracts indicate a promise of land at the end of the servants' term.

Despite the inability of many former servants to prosper in Virginia with, at most, two suits of clothing, a barrel of corn, some tools, and possibly a gun, some freed servants, if denied these essentials, were willing to take their masters to court in order to receive what was promised to them. Servants, but not slaves, had the right to lodge complaints against their masters before the justice of the peace, one of the few distinctions—other than their temporary bondage—that some servants were able to make between themselves and the enslaved. A servant's ability and right to complain to the court against their masters for mistreatment, ill-usage, or a denial of basic provisions or freedom dues was most certainly an advantage they had over permanently bound African slaves, but that advantage was sometimes only acknowledged in the law books and by the courts; their masters rarely saw their ability to complain as a reason to treat them any differently than they did the enslaved. While a servant's right to petition was a way to separate the temporarily bound from the enslaved, many masters were not concerned with the color of their servants' skin and they held their servants beyond the expiration of their contracts in the hopes of exploiting their bonded condition. Masters with servants nearing the end of their contracts were not concerned with the impending freedom of their mostly white temporarily bound labor force; instead, many were more concerned with extending that bonded condition beyond the terms of their servant's contract.

The earliest law allowing servant complaints dealt specifically with master cruelty but also included a servant's right to petition the court "for harsh and bad usage, or else for want of dyett or convenient necessaries." The denial or withholding of freedom or freedom dues fell under this harsh or bad usage. By 1705 the enacted law directly addressed a servant's right to issue a complaint against his or her master. After hearing

the servant's petition, if the court found cause, they summoned the master or mistress to answer the complaint and then ordered him or her to provide the servant with whatever it was they were withholding, whether food, clothing, lodging, or teaching apprentices a skill or trade, or to stop the mistreatment that brought their servants before the court. Only if a second complaint was made before the court was the servant removed from the master's household and their remaining time sold at public outcry. The master, however, received payment for the sale but was also required to pay court fees for his servant having appeared before the court.[5]

The right of servants to complain is one of the reasons some historians are so quick to speak of the power and influence servants had when petitioning the courts. While it is true that many servants who petitioned the court for their freedom dues received them, sometimes those positive outcomes overshadow the dismal fact that so many servants had to actually petition for what was guaranteed to them by law and completely ignore—or treat as anomalies—those servants who were denied their freedom or their dues or did not or could not, for a variety of reasons, go to court to receive them. In addition, despite a servant's ability to petition, which, as stated earlier was most certainly an advantage, or at least an advantage according to law, if they complained they were first returned to their masters. And if they complained a second time they still were not freed, but were made to serve out their terms with someone else, and the advantage they had in petitioning the court became insignificant, as they remained in bondage. Moreover, their masters still received payment for the sale, so in reality despite losing a bound laborer who most likely contributed to the productivity of the household, a

[5] "Cruelty of Masters Prohibited (1662)," Act CII, *Hening's Statutes at Large*, II, 117–18 (quotation on p. 118); "An Act Concerning Servants and Slaves (1705)," Chapters XLIX, Sections VIII , *Hening's Statutes at Large*, III, 448–49.

delinquent master was still compensated for the loss of that servant (and the servant was passed along to another master who might have treated him or her in much the same way). So while the law and those servants who were successful in gaining their dues suggest that there was an advantage to being a white bound laborer, these people were still bound and were treated not as future free persons but as unfree laborers by their masters.

After years of toiling in the fields and households of Virginia's landholding families, servants at the end of their terms believed they were owed at least those provisions promised to them not only by law but by the contract their masters agreed to when they first contracted their service. And, unlike in cases of bastardy, fornication, violence, or resistance, servants petitioning for their freedom or freedom dues often experienced the benefits of their temporary servitude and even their whiteness and not the limitations of their bound, unfree status, and were granted whatever it was their masters had attempted to withhold from them. The courts, it appears, were willing to recognize the temporality of these servants' bondage and their entrance into society as free persons, but not all masters did. Some tried to deny servants their dues and others attempted to keep their servants bound well after the expiration of their contracts, thereby keeping their servants locked in a world between freedom and unfreedom.[6]

With the enactment of "A Law Concerning Servants and Slaves" in 1705, masters were well aware of their legal obligations to their servants. Unlike other parts of this law,

[6] For a discussion of servants' legal success in cases concerning freedom dues, and in those cases the courts were not controlled by the desires of masters, but were sympathetic to the complaints and needs of servants and often decided in their favor, see Christine Daniels, "'Liberty to Complaine': Servant Petitions in Maryland, 1652–1797" in Christopher L. Tomlins and Bruce H. Mann, eds., *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001), 219–49, esp. 215–16, 225, 229–31, 237.

the sections regarding a master's duties to his or her servants were rarely altered during the eighteenth century. Throughout the century masters had to provide their servants with certain things, including clothing and food during their time of service along with food, clothing, and sometimes money at the end of the contract. Some masters attempted to deny servants their dues, and even their freedom, or give them less than what the law dictated, often relying on custom and the ignorance of their servants, to give them less than they were owed by law. Masters exploited the power they had over their servants. Their servants, while not slaves, were certainly not fully free and were dependent upon their masters to provide them with the necessary provisions to survive their temporary bondage as well as their first year post-bondage, however low on the social ladder they began those new lives. While those servants who petitioned the courts when their masters attempted to exercise this power were often granted their freedom or their freedom dues, the fact remains that masters sometimes attempted to shirk the responsibilities they were obligated to fulfill upon signing servants to a contract of indenture. They exploited their power as well as the bonded condition of their servants in an attempt to avoid providing for them or to gain additional service. They chose to let the courts decide whether or not they should provide for their servants and gained a few more days or weeks of work as servants waited for the courts to hear their petitions. Even on the verge of freedom, servants fell victim to the power and exploitation of their masters and sometimes that of the county courts. Other masters, most of whom are left undocumented in the colonial record, either paid servants their dues and set them free of their contracts, as was directed by law, or went above and beyond what they were legally required to give and saw freedom dues as a delayed wage. There were many more servants in eighteenth-century

Virginia than those who appeared before the courts; many were treated well by their masters and others were kept from petitioning the courts by abusive and controlling masters. While genuine acts of kindness often did not make it before the courts, other cases involving negotiations in which both masters and servants benefitted in some way will be discussed in this chapter. The sincerity of those masters who agreed to new terms with their servants most likely were not always acting out of the kindness of their hearts but instead in a paternalistic fashion, which, yet again, left the servants in a position of powerlessness even as they entered freedom.[7]

Because of the dearth of sources regarding eighteenth-century servitude, historians must rely heavily on court records and statutory laws to better understand how servants lived and interacted with other members of colonial Virginian society. Some scholars believe there is too heavy a reliance on statutory law and argue that by focusing on statutes rather than custom, the power of servants themselves is diminished. As a result, the power and control of masters over their servants is overemphasized. In cases in which servants complained to the courts, it would seem that focusing on a servant's ability to petition would suggest just the opposite. Their right to petition gave them some power and even control, and it was often the court's final decision that either bolstered or diminished this power. But servants rarely gained the upper hand when dealing with their masters. Racial solidarity did not exist between masters and servants. While laws might suggest as much because servants were only bound for a certain number of years and they were given some privileges in the courts not granted to the enslaved, their masters were

[7] See Galenson, "The Settlement and Growth of the Colonies, 135–207, 155; Beckles, *White Servitude and Black Slavery in Barbados*, 141–43.

more concerned with their bonded condition and exploited their servants because of their unfreedom, which had nothing to do with the color of their skin.[8]

Throughout the eighteenth century a number of servants in various Virginia counties petitioned their respective county courts for their freedom dues, having had them withheld by their masters, and were successful in obtaining them. Mary Spark received one pound and five shillings and clothing for her service in 1705, while Margrett Bird requested and received fourteen bushels of corn and forty shillings in Accomack County three years later. Nathanial Norris also requested and received his freedom dues of corn and clothes from his master, Edward Thomas Sr. Mid-century, Mark Clark petitioned the court for thirty-five shillings and received that amount in currency, or its value in goods, and Susanna Nightling received three pounds upon petition. Two female servants petitioned for their dues in Augusta County in 1776, but were made to wait until their masters could be summoned to court to answer the accusation. With no later appearance documented in the court record, it is unknown whether or not they received their freedom dues.[9]

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[8] Daniels, "'Liberty to Complaine,'" esp. 220.

[9] Mary Spark, York County, 1705: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 332, 341; Margrett Bird, Accomack County, 1708: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 114, 118a; Nathanial Norris, York County, 1706: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 404; Mary Clark, York County, 1745: York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 370, 381; Susanna Nightling, York County, 1747: York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85. Sarah Dowman, Augusta County, 1776: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 114. Mary Handsale, Augusta County, 1776: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 114. Unfortunately, their masters' appearance went undocumented, and Dowman and Handsale disappeared from the colonial record. Other servants also experienced the same fate, remaining indentured while the court sought to question their master. See Margrett Lewis, Accomack County, 1716: Accomack County Orders, 1714–1717, reel 80 (microfilm), Library of Virginia, Richmond, Virginia, 24a, 25; Elizabeth Jones, York County, 1732: York County Deeds, Orders, Wills, 1732–1740, 18, reel 9 (microfilm), Library of

Despite receiving what was guaranteed to them by law, these servants received a very small amount of money for their service, and in most cases, that money would not last them very long. Were the paltry dues given to them upon petition one last reminder of their status and their lack of power? Was it a way for the courts to honor the spirit of the law but also remind these servants of their bonded condition and that they were entering society as free persons but certainly not equals? Mary Clark and Nathanial Norris, among others, petitioned for what was rightfully theirs and received it, or at least some of it, but by not getting all that was written in law, the court was in some way still showing allegiance to masters who attempted to withhold dues; therefore despite having the ability to petition and even having success before the courts, not all servants left with all that was promised to them. Servants entering freedom were still very much at a disadvantage and unlikely to find common cause with the master class for whom they had just so recently worked. Masters most likely felt the same way.

While it is difficult to obtain figures regarding eighteenth-century wages, some seventeenth-century numbers do exist. In 1621 laborers received anywhere from two to eight shillings a day, with tailors and common laborers earning between two and three shillings and sawyers earning between six and eight shillings. By 1640 common laborers earned two and a half shillings, or ten pounds of tobacco, a day. It has also been said that before 1660 a wage worker received approximately £12 a year. These numbers, of course, are for free wage workers and skilled laborers. They were not servants who had contracted out their labor in return for transportation, food, clothing, and lodging during their indenture, which, undoubtedly, required a large outlay of money by their master.

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Virginia, Richmond, Virginia, 313. Stafford Wood, York County, 1739: York County Deeds, Orders, Wills, 1732–1740, 18, reel 9 (microfilm), Library of Virginia, Richmond, Virginia, 474.

But that fee was paid for by their service; therefore the freedom dues they received were supposed to sufficiently support them for a year, post-servitude. When comparing the money received by Mary Spark, Margrett Bird, Nathanial Norris, Mary Clark, and Susanna Nightling, among others, to that of colonial wage earners, servants out of their time received a great deal less. So while they gained their freedom, unlike the enslaved, they now faced a freedom that most certainly reminded them of their previous servile condition.[10]

These servants, forced to go to court to petition for what was guaranteed them at the end of their terms, received any combination of corn, clothes, and money, as shown in these court cases. Regardless of what they received, there was little possibility that any could live for long on these dues, although those who received money were most likely better off than those who only received corn and clothes. While some may have been able to find wage work, they would not have been able to establish themselves any higher in society and might even have to bind themselves to someone else in order to survive. The full dues that servants were owed were barely enough to support them, so anything less made their lives and their condition even more difficult. Based on these court cases and the freedom dues received, it appears as though some servants' freedom would resemble their bondage and they would remain unequal, and maybe even exploitable, by their former masters.

The majority of the servants appearing before the court requesting their freedom dues were women, but men were also denied their dues. It should be considered that, based on the way women were treated in cases of bastardy and fornication, their masters

[10] Morris, *Government and Labor in Early America*, 87; Thomas J. Wertenbaker, *The Planters of Colonial Virginia* (Princeton: Princeton University Press, 1922), 71, 113.

may have found them easier to manipulate and exploit than male servants were; therefore some masters attempted to withhold freedom dues from women servants with the intention of binding them to further service, or simply to relegate them to a life of poverty, in order to remind them, that while free, their lives as servants made them less than those who never were. Nevertheless, there were exceptions: one of the more interesting cases involved a young male servant whose master was able to briefly delay the court's decision and gain a few more days of labor from his servant.[11]

William Winbery and his parents first appeared before the Accomack County court in early 1716 to petition for Williams's freedom dues. William Winbery, most likely an apprentice bound to serve Phillip and Elizabeth Fisher until the age of twenty, had been promised "two suits of clothes, a cow and a calf at the expiration of his term." Having reached twenty years old and completed his indenture, Winbery was owed his dues, but because he had served part of his term with Phillip Fisher and the other part with William Lewcus, Fisher claimed he was not required to provide Winbery with his dues. Lewcus, summoned to the next meeting of the court, claimed that Winbery had not yet completed his term and that he—Lewcus—was still owed additional time. Based on this new information, the court took Lewcus's word over that of Winbery's and ordered Winbery back to his master's house until Lewcus could prove his claim. During this time,

[11] Unity Davis, York County, 1703: requested and received nineteen shillings and ten pence from the estate of her deceased master, William White. York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 166. Jane Edmunds, York County, 1712–1714: Jane and her husband demanded dues from Jane's former master John Dozwell Sr. and received fifteen bushels of corn and forty shillings. York County Deeds, Orders, Wills, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 122. Sarah Blackley, York County, 1715: requested and received twenty-five shillings from her former master John Lyall. York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 398. Katherine Sandlin, York County, 1724: received three pounds and ten shillings from the John Bates estate, despite her request for corn and clothes. York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 295. Sarah Bryant, York County, 1732: petitioned the court for freedom dues and received payment, in cash, from the estate of Justinian Love, deceased. York County Deeds, Orders, Wills, 1729–1732, 17, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 308, 321–22.

Lewcus was ordered to provide Winbery with "sufficient Cloathing for such a serv[an]t." At the next court, Winbery was found to be free and Lewcus was ordered to pay him what Phillip Fisher had agreed to pay him at the end of his term: two sets of clothing, a cow, and a calf. In addition, Lewcus was made to pay Winbery wages for the time he kept him unlawfully as a servant.[12]

The case of William Winbery illustrates the efforts of some masters to deny servants what was rightfully guaranteed to them by law and to use the courts and their own social standing to their advantage. The contract Winbery signed with Fisher was clear: he was to work until a given age and was to receive certain things in return for his service. Lewcus, however, did not appear to agree to these terms, despite, most likely, being aware of them when Winbery's indenture was signed over to him, and Lewcus attempted to hold Winbery in temporary bondage. Interestingly, the court did not immediately decide in Winbery's favor but gave his master—their social equal—the opportunity to prove his claim. Only after Lewcus could not prove that he was owed continued service from Winbery did they provide him with his freedom dues. The court's action in this case diverges from the various cases in which courts gave servants their due upon first petition, but it does indicate that some masters did attempt to delay a decision—and possibly gain additional days or weeks of work—in order to avoid providing corn, clothes, and money to their newly freed servants. While Winbery had to return to service for a short time, he was ultimately given what he was due, despite his master's attempt to keep him bound. Other servants requesting their freedom dues were sometimes denied their dues outright.

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[12] William Winbery, Accomack County, 1716: Accomack County Orders, 1714–1717, reel 80 (microfilm), Library of Virginia, Richmond, Virginia, 15 (first quotation), 15a (second quotation), 17a.

Most servants bound themselves in order to better their condition at the end of their contracts, despite the poor provisions they received upon freedom. Some were denied their dues through dishonesty and manipulation, sometimes of their own making, but usually due to that of their master. Elizabeth Williams was denied her request for corn and clothes in March 1707 when it was discovered by the court, by proof of indenture and upon her own admission, that her term did not end until late March. Williams's request was denied, but she was not given any additional time, as was the case in most situations in which servants attempted to manipulate and deceive, which could in itself be telling. Williams had less than two weeks left to serve when she petitioned for her freedom dues; therefore, the court's refusal to honor her request was legitimate. A question remains as to why Williams was not punished for her deceit. One possible answer is that she only had a short time left to serve, but this answer does not hold when considered in conjunction with cases involving runaways and the extension of their contracts by several weeks or months for being absent only a few days. Another, possibly more plausible answer, is that the court was aware that abuse or manipulation by the master was occurring, and that while they could not release Williams from her contract early, due to her dishonesty, they would not allow her to remain a servant to Richard Sheild beyond the end of her contract. It is possible that Sheild attempted to exercise his power over her by threatening to withhold her dues or to hold her in servitude beyond her contract. Perhaps she was trying to preemptively gain the mercy of the court, or she may have hoped to manipulate the court to decide in her favor and gain an early release. Williams, it seems, believed that an indenture that was soon to end was just as good as a completed term. Her desire for freedom, or her fear of continued bondage, was enough to

motivate her to petition the court. She may have believed that her legal right to petition and her temporary bondage could work to her advantage, but instead she remained with her master to serve out her complete term, and most likely experienced some form of punishment from her master for having taken him before the court in the first place.[13]

In this one Accomack County case, Elizabeth Williams, a servant, attempted to mislead; in most others, it was the masters who tried to keep their servants dependent and unfree. Elizabeth Cocklin and Thomas Campion were both denied their dues, one possibly being forced back into servitude in order to survive, and the other returned to bondage to serve out a contract the court deemed incomplete. Elizabeth Conklin was denied freedom clothes from her master, William Coman, in the early 1710s, but according to the court, no evidence was presented that indicated that Coman "had made any promise." Because this case occurred after 1705, freedom dues were more than customary, they were the law; but it appears as though the court made the decision based on custom instead and sent Cocklin into freedom with no provisions, which most likely meant she was forced to return to service after just being freed. Thomas Campion claimed his contract was expired and he was owed dues from his master. The problem here, though, was that Campion had appeared in court for "Committ[ing] an Offence" earlier in his contract at which time his indenture was extended. During his time, Campion served both Robert Clark and Robert Dyer, but both men refused to pay him his corn and clothes, and the court decided that Campion's contract had not yet expired. He was ordered to return to Dyer's home to complete his term. Not only were Campion's dues denied, but he was also required to continue serving Dyer, from whom he believed

[13] Elizabeth Williams, Accomack County, 1707: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 89a.

he was free. The unwillingness of the court to consider Campion's claims may have stemmed from Campion's earlier appearance for an unspecified offense. Campion's request for freedom dues stemmed from his belief that he was free, while most of the other servants already discussed were, indeed, free but had entered freedom without their dues. Campion was misled by Robert Dyer, who clearly had the court on his side; and not only was Campion denied his freedom dues, but he was also to remain a servant beyond what he believed to be the end of his term.[14]

In both of these cases the servants involved believed that because they were white, temporarily bound, and had the right to petition the courts, they might gain the mercy of the court and leave their service with what was guaranteed to them by law. But yet again their masters, William Coman and Robert Dyer, remained in control: Coman having never agreed to pay Elizabeth Cocklin any freedom dues at the end of her term, and Dyer gaining more service for some sort of offence committed by Thomas Campion earlier in his term. Because of this control, Cocklin and Campion remained relatively powerless.

As has been established, masters were required to care for their servants during their term of indenture. This included caring for their servants if they became ill and keeping them in their service until the expiration of their contract, even if they were no longer able to perform their duties. If a master "put away any such sick or lame servant, upon pretence of freedom, and that servant [became] chargeable to the parish," that master had to pay ten pounds current money of Virginia to the churchwardens for the

[14] Elizabeth Cocklin, York County, 1712–1714: York County Deeds, Orders, Wills, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 180 (first quotation); Thomas Campion, York County, 1725: York County Deeds, Orders, Wills, 1720–1729, 16, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 321 (second quotation), 325.

upkeep and maintenance of the servant. These legal obligations were reiterated in the 1753 law regarding servants and slaves, and by 1792 masters were charged thirty dollars (a Spanish peso worth approximately 4 shillings and 6 pence) if their sick or lame servants became charges of the parish. In 1705, 115 pounds of Virginia current money was equivalent to approximately £100 pounds sterling; therefore, masters who dismissed their sick servants into the charge of the churchwardens were charged approximately £8 and 7 shillings. The thirty dollars masters were charged by 1792 would be equivalent to around $700 in 2010 and would most likely not have gone a long way to care and provide for a wrongfully dismissed servant. Masters, like Charles Holdsworth of York County, were not allowed to free their ill or injured servants just because they were no longer useful to them. They had to provide for their servants, even those like Abigail Obrien who was "being greatly afflicted with sickness." But because Obrien had been dismissed due to illness and Holdsworth failed to appear in court to answer Obrien's petition, she, instead, was set free with fifteen bushels of corn and forty shillings, or the value thereof in goods.[15]

Once Obrien was sick, Holdsworth clearly saw no personal benefit in her service and therefore granted her freedom, probably hoping that freedom would be enough to keep her from petitioning the court. Obrien, however, did not receive what was rightfully

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[15] "An Act Concerning Servants and Slaves (1705)," Chapter XII, *Hening's Statutes at Large*, III, 447–62 (first quotation on p. 450); "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, *Hening's Statutes at Large*, VI, 356–69, esp. 358–59; "An Act Reducing into One, the Several Acts Concerning Servants (1792)," Samuel Shepherd, *The Statutes at Large of Virginia, From October Session 1792, to December Session 1806, Inclusive, in Three Volumes, (New Series,) Being a Continuation of Hening* (hereafter *Continuation of Hening's Statutes at Large*), I, 180–81. John J. McCusker, *Money and Exchange in Europe and America, 1600–1775* (Chapel Hill: University of North Carolina Press, 1978), 209; Samuel H. Williamson, "Seven Ways to Compute the Relative Value of a U.S. Dollar Amount, 1774 to present," Measuring Worth, April 2012, http://www.measuringworth.com/uscompare/relativevalue.php; Abigail Obrien, York County, 1710–1711: York County Deeds, Wills, Orders, 1706–1710, 13, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 55 (second quotation).

hers upon her freedom and was wrongfully dismissed from her indenture due to illness. This case exemplifies the tenuous position of servants in colonial Virginia. Had Obrien been a slave, she would have either been forced to work through her illness, cared for until she recovered, and been quickly put back to work, or she would have been sold, most likely with no acknowledgment of her condition. Had she been a free wage worker—and male—she might have taken the proper time away from work in order to recover and then would have returned to work—wage workers made up a small proportion of the population in the late eighteenth century, and are sometimes, but not always, included in the numbers given for servants and slaves. But because Obrien was a servant, her master believed that by freeing her he freed himself of all responsibility and could cast her out and not fulfill his obligations. While she was not forced to work through her sickness, as were many slaves, she was certainly reminded of her unfreedom, regardless of its temporality. The sickness or injury of a servant was one of the only instances in which a master seemed to be completely void of benefit. Still, it would be difficult to argue that Abigail Obrien "won" her case against Holdsworth. She was ill, unable to work, and would only be able to support herself for a short period with the corn and forty shillings the court ordered Holdsworth to pay her. Based on the actions of other masters and their dealings with servants, it is not surprising that Charles Holdsworth attempted to avoid his obligation and get rid of Obrien without the interference of the courts. Other masters probably kept their ill servants as directed by law but held them in servitude beyond the expiration of their contracts in an attempt to get a full return on their investment while delaying their servant's freedom.[16]

[16] Jackson Turner Main, *The Social Structure of Revolutionary America* (Princeton: Princeton University Press, 1965), 272. See also John J. McCusker and Russell R. Menard, *The Economy of British America,*

Healthy servants were sometimes held beyond their terms, but despite their masters' attempts to keep them bound, most of those servants, upon petition, were freed. Between 1700 and 1782 a handful of servants petitioned for their freedom in Virginia. All of these servants, save one, whose master was summoned to the next court, were granted their freedom. George Fitch claimed "he hath become a slave" to his master, Major Densey, during the fifteen years he spent as a servant. That alone should indicate the conditions under which Fitch toiled and explain his attempt at running away. With the help of William Browne, his attorney, he was freed from his bondage. Hester Gambell, although held beyond her term, had been given her freedom dues and several pounds of corn but remained a servant to William Pattison. Upon hearing her petition and summoning Pattison to the next court, Gambell was freed from service, but not until Pattison had gained several weeks of additional labor. Both Fitch and Gambell were dealt with unfairly by their masters, who believed that despite their servants nearing the end of their indentures, they had the upper hand and could manipulate Fitch and Gambell because of their servant status or likewise manipulate the courts to decide in their favor. John Bird and David Jennings were also held beyond their terms, Bird during the 1700s and Jennings in 1774. Upon hearing their petitions, the courts set them free.[17]

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*1607–1789* (Chapel Hill: University of North Carolina Press, 1985), 245–46.

[17] Providence, Richmond County, 1782: Richmond County Order Book, 1776–1784, 18, reel 39 (microfilm), Library of Virginia, Richmond, Virginia, xxx; George Fitch, York County, 1700: York County Deeds, Orders, Wills, 1698–1702, 11, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 325 (quotations); Hester Gambell, York County, 1700: York County Deeds, Orders, Wills, 1698–1702, 11, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 289, 341; John Bird, York County, 1727: York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85, Box Byrd, B–Z 61; David Jennings, Augusta County, 1774: Augusta County Order Book, 1773–1774, 15, reel 66 (microfilm), Library of Virginia, Richmond, Virginia, 3.

In the case of John Bird, the mulatto son of Margaret Bird, a York County servant (of no relation to the Margrett Bird of Accomack County who appeared in court requesting her freedom dues in 1708), his freedom may have been aided by the presence of someone believed to be a next friend. Next friends were not guardians and usually appeared in court without the person for whom they spoke, but in the case of John Bird, both Bird and his next friend, William Hopkins, were present. It is possible that George Fitch's attorney, discussed earlier, could also have been considered a next friend. Hopkins was present not because Bird was incompetent, but to ensure that Bird was treated fairly both by the court and his master who had already attempted to use his power against him.[18]

John Bird was bequeathed to Frances Jones in 1719 upon the death of her father, Orlando Jones. Bird's mother Margaret served Orlando Jones during the early 1700s and appeared before the court in 1703 for having a bastard child, John. Because Bird was a mulatto bastard child, he was to serve Jones until he was thirty years old; therefore, if he was born in 1703, he was sixteen years old when he was bequeathed to Frances. By the time Bird appeared in court in 1726 with William Hopkins, who spoke out against Bird's being held beyond his term, he was twenty-three years old and in the service of Graves Pack. Hopkins asked the York County court to summon Pack to explain why he had held Bird beyond his term, even though, by law, Pack could hold Bird until he was thirty. The court found in favor of Bird, and he was freed from service. The question remains: If Bird was indeed born in 1703, how could Hopkins accuse Pack of holding Bird beyond his

[18] Next Friend, *Oxford English Dictionary Online*, s.v. "next friend," accessed November 27, 2012, http://www.oed.com/view/Entry/126669?redirectedFrom=next+friend#eid34754655. See also Cornell University Law School, s.v. "next friend," accessed November 27, 2012, http://www.law.cornell.edu/wex/next_friend.

term in 1726, when he, by law, would have had seven more years to serve? As with many cases, it appears as though the court's decision was based on custom, not law. When Hopkins spoke in court, he made it clear that Pack was not to misuse Bird before appearing before the next court. This indicates that there may have been some abuse taking place; abuse that Pack believed he could get away with based on his free status. Once another free person became involved and spoke against Pack, though he was forced to relinquish his power and give up his servant, John Bird.[19]

The presence of next friends in cases regarding freedom or freedom dues suggests that despite their ability to complain against their masters, some servants were still very much at a disadvantage before the courts. Had Bird petitioned without the help of Hopkins (and Fitch without the help of William Browne), the courts might have decided against them. The ability to petition, therefore, might have only gone so far, as servants recognized their servile condition, which they hoped would become their servile past, but remained relatively powerless when faced with the authority and influence of their masters. While a next friend may have been necessary for Bird to gain his freedom, most servants were granted freedom without the aid of others or additional documentation.

Neither George Fitch nor Hester Gambell—nor John Bird, David Jennings, or Providence—was asked to produce documentation upon petitioning for freedom.

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[19] Margaret Bird, York County, 1703: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 123; John Bird, York County, 1719 and 1727: York County Project, Department of Training and Historical Research, Colonial Williamsburg Foundation. Research and data collection with assistance from the National Endowment for the Humanities under Grants RS-0033-80-1604 and RO-20869-85, Box Byrd, B–Z 61. John Bird appeared in the court records along with Will Cannady, another servant of Orlando Jones. In the 1719 inventory of Jones's property, Cannady was given to Lane Jones and valued at £15 and Bird to Frances and valued at £20. Bird and Cannady were listed with ten slaves. Both Cannady and Bird appear in a 1727 estate settlement of Orlando Jones's property and are valued, along with the late Jones's other servants and slaves at £464, 10 shillings. See also John Bird, York County, 1719: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 531. For the law that bound John Bird to serve until he was thirty years old see "An Act for Suppressing Outlying Slaves (1691)," Act XVI, *Hening's Statutes at Large*, III, 87.

Moreover, none of the servants requesting their freedom dues needed their contracts to prove their freedom before receiving their dues. The inconsistencies regarding court decisions throughout the colonial period most likely suggest that at every meeting of the court the justices who heard these cases varied, and that there were times when masters with whom they had social and economic relationships appeared with their servants at which time they might have decided in their favor. Masters' attempts to withhold freedom dues and freedom do illustrate a clear power dynamic that most often put servants at a disadvantage, and there were times that the courts, if only briefly, required more than a servant's word in order to set them free, as in the cases of Morgan Bradshaw and John Hollock. Both of these men appeared before the Accomack County court in 1706 petitioning for their freedom.

Morgan Bradshaw petitioned the court that he had been held beyond his term of four years by his master, Nehemiah Jones. Jones, however, argued that Bradshaw's contract stated he was to serve for five years. Because of this discrepancy Bradshaw was asked by the court to produce additional documentation in order to confirm his freedom, since Jones came to court with no proof of his own. The court did not specify exactly what this documentation should be, but it was probably the indenture itself, which Bradshaw did not have in his possession. John Drumond Sr., a Quaker and most likely a next friend of Bradshaw's, confirmed that he had seen the signed indenture that bound Bradshaw for four years of service, and Bradshaw stated that he could produce even more evidence to support his claim, if he was given permission to leave his master in order to obtain it. Taking Bradshaw at his word, the court ordered him to find the necessary evidence to prove that his contract had expired. If he could not prove it, though, he would

be made to serve Jones additional time. Bradshaw appeared in court again in August 1706 with a signed deposition from Thomas Lyne, whose relation to Bradshaw is unknown. In the deposition, Lyne, who had the indenture in his possession for reasons unknown and left unexplained in the court record, confirmed that Bradshaw's contract had expired and Bradshaw was declared free by the court. Nehemiah Jones was ordered pay Bradshaw his corn and clothes. This case, like many, casts Nehemiah Jones as a master fully intent on using his own power over that of his servant and manipulating the court to decide in his favor, which would have resulted in Jones gaining an extra year of service from Bradshaw. Instead, essential documentation and a next friend aided Bradshaw in gaining his freedom and his freedom dues. Unlike other servants who merely petitioned for their freedom and received it, Bradshaw was asked to present written evidence to prove his claim, written evidence that he did not possess.[20]

There is no explanation within the historical record as to why Bradshaw himself did not have in his possession his indenture or the additional documentation that he traveled to Lancaster County to retrieve, although there are several possible explanations. First, Bradshaw may have believed that by leaving his documents with another person, most likely a free person, that he could safeguard himself against any confusion regarding his contract. If the evidence were in his possession, he might have feared that Jones would try to take it from him and manipulate it to his advantage. Second, there is a possibility that Bradshaw was illiterate, or at least limited in his literacy, and therefore did not know exactly what his contract or additional documentation said. Leaving his documents—or being told to leave them—with a trustworthy free person protected him

[20] Morgan Bradshaw, Accomack County, 1706: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 71a, 75a.

against a master he may not have trusted; a master he rightfully should not have trusted based on having been wrongfully held beyond his term. Third, because Bradshaw appears to have initially been in Lancaster County before serving Jones in Accomack County, he might have left his documentation with someone in Lancaster County in order to avoid the possibility of losing his indenture and having to appear before the court without proof of his remaining time and risk being held for longer than he was contracted. A final explanation might have been not a safeguard put in place to protect Bradshaw, but his master. Jones might have feared that Bradshaw would lie about his contract or the time he had remaining to serve, and that leaving it with someone else protected him from the temptation of being dishonest, a clear act of paternalism. The one documented case in which two servants lost their indentures, however, prove this fourth possibility wrong. In 1718 in York County, Morgan Connor and Mary Forred, servants of Henry Gill, testified that their indentures had gone missing and reported that they had three and four years, respectively, left to serve. The court received no complaints from Gill regarding their terms, and Connor and Forred were ordered to return to their master. It is unlikely that the indentures of Connor and Forred were registered in the county court, since the only servants ordered by law to appear before the court were those who had to have their ages adjudged to establish the length of their indenture. Other masters did appear before the court to bind their servants, most often when binding bastard children and apprentices.[21]

By giving up control of their documentation, for whatever reason, the powerlessness of servants was reinforced and sometimes delayed their freedom. Fortunately for Bradshaw, Nehemiah Jones was unable to produce his own

[21] Morgan Connor and Mary Forred, York County, 1718: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 216.

documentation confirming a five-year contract. In the case of John Hollock, both servant and master came to court with documentation, albeit conflicting. John Hollock requested his freedom in early 1706 and had written proof that he had completed his term. Hill Drumond, Hollock's master, produced another document that stated that Hollock was "to serve according to his age," and he claimed that Hollock had not yet reached the age of twenty-one. Hollock was sent home with his master and ordered to bring additional evidence to the next court. In April, Hollock, his attorney, and Drumond returned to court. Hollock's attorney presented the indenture, signed in London, and a deposition sworn before Captain John Braudhurst, the captain of the ship on which Hollock was transported. Drumond, though, objected to the deposition being used as evidence because "it was not sworn to in open court," but he quickly retracted his objection once it was suggested the case be revisited at the next court. Another deposition was read in court and stated that John Read had personally delivered John Hollock, Hollock's indenture, and a letter to Hill Drumond. Instead of using the information on the contract of indenture to bind Hollock to serve, Drumond had gotten Hollock's age adjudged by the court and claimed he had no need for the indenture, telling Read to burn it. Drumond argued that the indenture produced by Hollock was not real and that Hollock still had time to serve, since, according to Drumond, he had bound his servant according to the custom of the country, which meant that he had to serve according to his age. The court, however, believed the indenture was legitimate, and since Hollock had already served Drumond for seven years, Drumond was made to give his now former servant the corn and clothes that was rightfully his.[22]

[22] John Hollock, Accomack County, 1706: Accomack County Orders, 1703–1709, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 62a (quotations), 68a–69a. See also "An Act Concerning Servants

John Hollock's experience, much like Morgan Bradshaw's, included a number of free persons, a great deal of confusion, and questions regarding proper evidence and the control of documents. What makes this case different, though, is that Hollock had his contract in his possession, meaning he controlled his own documentation—once he was delivered to Drumond—and was able to produce it to the court upon his petition. While being transported, Hollock's indenture was in the hands of Captain Braudhurst's assign, John Read, most likely for safe keeping or to ensure that Hollock was not exploited. Also different is the obvious deception of Drumond in his attempts to gain additional years of service by having Hollock's age adjudged rather than abiding by the official contract of indenture signed and verified in London. By telling Read to burn the indenture, he made it clear that he intended to use his power to gain the service he wanted and not merely what was written in the contract. Because Hollock's contract was handled by another person, John Read was then able to appear in court and confirm Drumond's attempted manipulation. Hill Drumond's failed efforts to exercise his power over both his servant and the courts resulted in the release of Hollock based on the original contract. Although the only example of this manipulation found in the court record, it is likely that Drumond was not the only master who sought to deceive in this way.

Having the support of other free whites, or next friends, helped George Fitch, John Bird, Morgan Bradshaw, and John Hollock gain their freedom. Those next friends also illustrate the ties some servants already had in the free community even while they were still servants. The testimony of next friends or attorneys was not necessary for

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Sould for the Custome (1672)," Act V, *Hening's Statutes at Large*, II, 297; "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, Section III, *Hening's Statutes at Large*, 447. It is unclear if the John Drumond Sr. and Hill Drumond—the master of John Hollock—are related.

servants to gain their freedom, but it certainly did not hurt that they had support within the larger free community. While these servants were treated in a way that more closely resembled unfreedom by their masters, the actions of next friends reminded them of the freedom they were rightly owed and ultimately received. Sarah Maud, while not held beyond her term, was unlawfully bound by James Morris in 1703, and with the help of her attorney, Orlando Jones—whose own servants Margaret and John Bird were discussed earlier—and a jury, the court decided in her favor. No explanation was given as to why or how Maud was bound without an indenture, but Morris likely believed he could get away with it, possibly because Maud was a woman of the lower sort. It is also possible that Sarah Maud had previously been a servant. But with the help of Orlando Jones, she was able to prove her freedom and avoid being unlawfully bound to James Morris. During the mid- eighteenth century Daniel Roberts, a free mulatto, also had to defend his freedom—without the help of a next friend or attorney—because of an assumption made regarding his status based on the color of his skin. Roberts, born of a free woman, was unlawfully bound by Charles Hansford Jr. The court found in his favor and immediately set him free.[23]

Charles Hansford bound Roberts based on race and nothing else. He assumed that Roberts must be a servant or slave because he was mulatto, and so Hansford did not inquire about Roberts's freedom. In this case, Roberts, a free man, was forced to give up his freedom and serve Hansford for an unspecified time until he went before the court. Free white women who gave birth to mulatto bastard children were also forced into servitude. Roberts and those free, unmarried, white women never intended to enter

[23] Sarah Maud, York County, 1703: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 172; Daniel Roberts, York County, 1746: York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 424.

servitude but were forced to either because of a greedy master, in Roberts's case, or because they had to, according to law, as discussed in chapter 2. Unlike many other servants, the issue of race played a key role in Roberts's servitude. He was kept in temporary bondage by a free person who held more sway in the community than Roberts did because of the color of his skin, and he experienced, if only temporarily, his own powerlessness and the power and influence that Hansford believed he had over him and hoped he had over the York County court.

Although many servants were granted their freedom or their freedom dues once they appeared before the court and therefore gained their freedom, albeit usually delayed, the only reason they appeared in court was because of the power their masters were attempting to hold over them. The master-servant relationship, then, was most often one of power, who had it, and what they did with it. Not all masters set out to manipulate and defy—after all, there were laws against such behavior—although in many cases custom overrode statute. But masters were not allowed to "make any bargain with his or her said servant for further service, or other matter or thing relating to liberty, or personal profit," without the court's consent. With the court's consent, however, servants and masters were able to come to agreements that were not necessarily part of the initial contract they signed and often were of mutual benefit. Masters would not release a servant from service without gaining something in return, although they also often lost something in the process. Servants sacrificed the most in these dealings, relinquishing their freedom dues in order to end their service before the expiration of their contracts in order to gain their freedom, but they gained their freedom and a small amount of power in the process,

as their masters were willing to negotiate with them and not treat them merely as a labor source to be manipulated.[24]

During the mid- to late-eighteenth century many servants appeared before the court having reached agreements with their masters to relinquish their freedom dues in exchange for early termination of their contracts. While some historians claim this was because the institution had become increasingly harsh and exploitative, it is likely that servants who found their conditions that unbearable would have run away instead of trying to negotiate new terms with their masters. This increase in servants giving up dues in exchange for freedom does indicate a change in the institution, but not toward more strictness or impersonal interactions. Instead, by the mid- to late- eighteenth century the institution itself was on the wane; therefore, relationships between masters and their servants may have been less contentious than in earlier years, and servants might have planned to move further west to settle their own lands and begin their lives as free persons. James Davis was granted his freedom by William Parks in July 1742 in York County. Matthew Lattimore and Mary Lane relinquished their dues in Augusta County in 1773. Catherine Barkely and William Morgan gave up theirs in 1776, which not only freed them from service but also freed them before the end of their contracts. Barkely was freed after only ten months of service, while Morgan—whose circumstances were unique for a variety of reasons—had his term reduced by eleven months by agreeing to leave without provisions which were intended to provide for him during his first year of freedom. Leaving without their freedom dues did mean that they had nothing—no corn, no new suit of clothing, no weapon, no money—upon gaining their freedom. Living

[24] "An Act Concerning Servants and Slaves (1705)," Chapter XXI, *Hening's Statutes at Large*, III, 447–62, quotation on p. 450; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, *Hening's Statutes at Large*, VI, 356–69, esp. 358–59.

every day as a free person, however, instead of wavering between freedom and unfreedom, was worth the sacrifice for some. And for their masters, the work of Lattimore and Lane was either clearly not imperative or they were no longer able to afford the freedom dues they would have to give them at the end of their service; therefore allowing them to end their service early meant they rid themselves of the obligation to provide dues.[25]

Interestingly, of the five servants who agreed to trade their dues for an early release from their contracts, four of them occurred between 1773 and 1776, a tumultuous time throughout Virginia, as the colonies took up arms against Great Britain. While there were costs and benefits for Lattimore, Lane, Barkely, and Morgan, there were also costs and benefits for their masters; although, as the war neared, these masters may have been happy to be unburdened from an additional member of the household for whom they were to provide. What is certain is that these four servants preferred to enter freedom with nothing rather than continue in unfreedom until the end of their terms. While it is likely that their masters could have approached them and told them they could no longer provide for them, these four servants were able to display a bit of their own power and negotiate an outcome that benefited both parties and not just their masters. Being free far outweighed the promise of freedom dues, which as we have seen, may have been kept from them despite their legal right to receive them. It is also possible that the male

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[25] See Sharon Salinger, *To Serve Well and Faithfully: Labor and Indentured Servants in Pennsylvania, 1682–1800* (Westminster, Md.: Heritage Books, 2007), esp. chapter 4; James Davis, York County, 1742: York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 113; Matthew Lattimore, Augusta County, 1773: Augusta County Order Book, 1773–1774, 15, reel 66 (microfilm), Library of Virginia, Richmond, Virginia, 155; Mary Lane, Augusta County, 1773: Augusta County Order Book, 1773–1774, 15, reel 66 (microfilm), Library of Virginia, Richmond, Virginia, 222; Catherine Barkely, Augusta County, 1776: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 114; William Morgan, Augusta County, 1776: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 127.

servants willing to relinquish their dues did so not only to gain their freedom early but also to join the revolutionary cause. In such cases, these former servants were not forced to immediately establish themselves within the community and find land on which to settle; but rather, they could participate in the war effort as soldiers and be taken care of, in some way, until the war was over, when they could then live as free persons.

In the midst of the American Revolution, William Morgan, servant to Matthew Wilson, George Berry, John McPheters, Robert Clark, and John Kirkpatrick, agreed to relinquish his freedom dues "on Condition of his Masters giving up Eleven months of his time." Morgan, who appears to have served five masters, was most likely used as needed by these men and was not bound to one household on a daily basis. It appears, however, that by November 1776 none of the five masters felt it necessary to keep Morgan in bondage, or none of them were willing to provide for him in the middle of a war. There is no indication as to how long Morgan was supposed to serve his many masters, but gaining his freedom eleven months earlier than expected was well worth it to Morgan, whose situation was quite unique (serving multiple masters under one indenture). It is likely that his experience was rather different from those servants contracted to serve only one household, and it is probable that he was treated differently by every master; therefore, giving up his freedom dues in order to escape his servitude early was worth the risk of entering society with no money or goods to his name.[26]

Servants willing to give up their dues, whether due to uncontrollable circumstances or not, were able to negotiate in one way or another with their masters. They exercised some power over themselves and their conditions, even if it was in

[26] William Morgan, Augusta County, 1776: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 127.

response to the possible desperate situations of their masters. Early release from their contracts was only one way in which servants took control and played a role in their own fate. By relinquishing their dues they ensured their freedom, but they entered freedom with nothing. However, there were some servants, like Unity Davis, Sarah Blackley, and Mary Clark, who petitioned for their freedom dues and still received a pittance—Unity Davis only received nineteen shillings and ten pence, Sarah Blackley twenty-five shillings, and Mary Clark thirty-five shillings—perhaps a last effort by their masters and the courts to remind them of their servile status. A willingness of their masters to bargain also illustrates that James Davis, Matthew Lattimore, Mary Lane, Catherine Barkely, and William Morgan also experienced a servitude unlike those held beyond their term. They had power that those servants did not. Early release, though, was only one way in which masters negotiated with their servants. Others, although practicing power and control over their own lives, agreed to remain unfree for reasons often left unexplained.[27]

Between 1708 and 1777 four servants voluntarily extended their contracts of service, thereby prolonging their lives as unfree laborers. The conditions under which these four agreed to additional bondage were all different. Katherin[e] Roadh, a servant in Accomack County during the early eighteenth century, agreed to serve her master, John Fizgarrell, an additional two years "for ye consideration of some particular kindness." In York County in 1731, Thomas Evans also extended his indenture by two years, but his additional time appears to have been a way for him to make up for lost time

[27] Unity Davis, York County, 1703: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 166; Sarah Blackley, York County, 1715: York County Orders, Wills, and Inventories, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 398; Mary Clark, York County, 1745: York County Orders, Wills, and Inventories, 1740–1746, 19, reel 10 (microfilm), Library of Virginia, Richmond, Virginia, 370, 381.

during his contract; time in which he was injured and unable to work. Ann O'Bryan and Elizabeth Ferris both negotiated with their masters during the late eighteenth century in Augusta County. O'Bryan, discussed in chapter 2, served additional time after her master allowed her to marry, and Ferris served Owen Owens for one year after he agreed to purchase her from her current master.[28]

In the cases involving Katherin[e] Roadh, Ann O'Bryan, and Elizabeth Ferris, negotiations took place that benefited both servant and master. For Roadh, although the "particular kindness" bestowed on her by her master is unknown, it is possible that she might have avoided being brought to court for fornication or bastard-bearing by, instead, agreeing to serve Fizgarrell for a few more years. If that was the case, she then would have also avoided having her child handed over to the churchwardens to be bound out and might have been able to keep her child with her. Or she might have been able to learn a skill if she agreed to extend her indenture, like Margaret Clark (see chapter 2), who remained unfree in order to learn "ye art of cookery." Regardless as to why Roadh agreed to two more years of service, she was not a bystander in the decision, but her decision meant that she would remain in bondage. O'Bryan was also able to act in her own interest by convincing her master to allow her to marry—which was prohibited by law. It meant additional service, but it also might have been that O'Bryan thereby avoided being accused of having a bastard child. Moreover, her master might have also benefitted from an additional laborer, O'Bryan's husband, Trade Flinn. Ferris, too, took some ownership

[28] Katherine Roadh, Accomack County, 1708: Accomack County Orders, 1703–1710, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 113a (quotation); Thomas Evans, York County, 1731: York County Deeds, Orders, Wills, 1729–1732, 17, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 221; Ann O'Bryan, Augusta County, 1766: Augusta County Order Book, 1765–1767, 11, reel 65 (microfilm), Library of Virginia, Richmond, Virginia, 417; Elizabeth Ferris, Augusta County, 1777: Augusta County Order Book, 1774–1779, 16, reel 67 (microfilm), Library of Virginia, Richmond, Virginia, 253–54.

in her own fate by convincing Owens to purchase her from her master. This could have been a case of abuse in which Ferris was unwilling to speak out, for fear of reprisal; therefore, she found a way to serve out her contract, remove herself from a probable abusive environment, and display some power, regardless of how small that display was. The degrees of benefit in these three cases vary: a particular kindness, the ability to marry, and the removal from a possibly violent household. What is certain, however, was that each servant woman took the chance to make her own decisions and to negotiate with her master, even while under contract. Like the servants discussed earlier who relinquished their freedom dues for an early release from their contracts, these servants also bargained with their masters and gained something, or so they thought, in return. Their masters still maintained the upper hand and a majority of the power while also giving their servants a sense that they were not completely powerless.[29]

Thomas Evans, while not powerless in his negotiation, received no immediate benefit from agreeing to extend his contract. While asserting some power over himself in agreeing to extend his indenture, he only did so in return for being unable to perform his duties during his contracted time due to injury or illness. Philip Lightfoot, his master, kept him as a servant even while he was of no use to him, unlike Charles Holdsworth who attempted to discharge his sick servant, Abigail Obrien. Once healthy, Evans offered to serve Lightfoot for an additional two years due to lost time, but Lightfoot would only accept one more year of service. This negotiation between servant and master illustrates a close and agreeable relationship between the two, or, at the very least, a master who understood his legal duties to his servant. Despite only allowing Evans to serve one extra

[29] Margaret Clark, York County, 1716: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 22.

year, Lightfoot still received more labor than stated in the original contract, and it is possible that due to the seemingly amenable relationship between Evans and Lightfoot, at the end of that year, Lightfoot may have been able to convince Evans to remain in his service even longer, reminding him of his kindness and care during his contract, although there is no evidence of this in the historical record.[30]

The negotiations made by servants to either relinquish their dues or extend their indentures do demonstrate that servants, in some cases, believed they had gained a voice and small amounts of power even while bound. A better explanation, however, is that through the use of paternalistic actions, masters were able to exploit and manipulate their servants into *thinking* that they had gained some power over themselves. The servants rarely gained much in these agreements. While some were freed, they left their servitude with nothing, which meant they were unable to support themselves. That probably meant that they would soon return to the service of another or be forced to perform wage work for measly wages. And in those cases where servants extended their contracts, it is difficult to argue that they gained any advantage. Their masters, however, did. By offering a kindness that they may or may not fulfill, masters asserted their authority and exploited their servants.

Small gains by servants, for example, the gaining of a skill, the ability to marry, or not being forced to work while ill, were victories for both master and servant. Servants believed they were slowly becoming masters of their own fate, while their legal masters understood that these small kindnesses would probably solidify the loyalty of their

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[30] Thomas Evans, York County, 1731: York County Deeds, Orders, Wills, 1729–1732, 17, reel 8 (microfilm), Library of Virginia, Richmond, Virginia, 221.

servants. Therefore, while servants might have believed they were being respected by their masters, their masters were most likely treating them much like they treated their slaves, or, for those who did not also own slaves, in ways they observed larger plantation owners treating their slaves. These small manipulations and more subtle displays of power certainly convinced their servants that they were closer to freedom than they actually were. Their masters were simply manipulating and exploiting them in less overt ways, gaining their trust and making them believe that they were acting out of legitimate kindness.[31]

Upon freedom, servants were required to carry with them a certificate verifying their freedom and that their contracts of indenture were, indeed, expired. This certificate was meant to make former servants' lives easier and allow them to be hired out as workers without suspicion; but it was also a reminder of their former status as bound labor and it kept them from being completely free. The enactment of this law in 1705 safeguarded against two things: that "poor people may not be destitute of employment, upon suspicion of being servants, and [that] servants [were] also kept from running away." In short, freedom certificates were required to protect not only the freed servant but also their future employers, poor persons seeking wage labor, and masters whose servants had run away. Servants, then, upon expiration of their term, were to appear before the court and "upon sufficient testimony," have their freedom documented. In return the servant received a certificate verifying his or her freedom. The certificate itself was deemed "sufficient to authorize any person to entertain or hire such servant, without any danger of this law." The law also required the county clerk to issue a new freedom

[31] Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Pantheon Books, 1974).

certificate to any former servant if theirs became "worn out or lost," and to report what happened to the original copy. Anyone who hired a former servant took the certificate into his or her possession "'till the contracted time shall be expired," and just like John Hollock and Morgan Bradshaw who were not in control of their own documentation during servitude, freed servants working for others failed to control their documentation as well. By 1753 the legal requirement for carrying a certificate was explained as a way to "indemnify any person for entertaining or hiring such servant." It was justified as a way to protect the employer from being accused of harboring servants although it had other less tangible effects, since former servants were required to prove their free status every time they sought employment and were reminded of their past temporary bondage. Even when they were free, they were still not on equal footing with those colonists who shared their economic woes but had always been free, never agreeing to bind themselves as servants. The freedom certificate requirement persisted into the late eighteenth century with only a few changes to the legal language.[32]

Even with written acknowledgment of their freedom, some servants' status continued to be questioned, as was the case with Elizabeth Davis and John Draper. In 1705 Davis remained a servant for two months past her indenture despite having possession of her freedom certificate, which was eventually presented to the court where she was granted her freedom. John Draper was accused of being a runaway and was given several days to obtain his certificate and present it to the Accomack County court

[32] "An Act Concerning Servants and Slaves (1705)," Chapter XLIX, *Hening's Statutes at Large*, III, 447–62, esp. 454–55 (first through fifth quotations on p. 454); "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, *Hening's Statutes at Large*, VI, 356–69, esp. 362–63 (sixth quotation on p. 362); "An Act Reducing into One, the Several Acts Concerning Servants (1792)," Shepherd, *Continuation of Hening's Statutes at Large*, I, 181–82.

to verify his freedom. In the first of these two cases, Elizabeth Davis was not asked to produce documentation for any of the reasons set down in the laws regarding freedom certificates. The certificate was not used to safeguard her employer or to protect the holdings of a master whose servant had runaway. Instead, she, like other servants, was held beyond her term of service for no other reason than her master did not want to release her after she had served her four years. The average contract for an indentured servant lasted anywhere from four to seven years, while customary servants were bound until they were twenty-four. Davis's four year contract suggests that she was either an indentured servant or a customary servant who arrived in Virginia without a contract at the age of twenty. Even when free—and with the documentation to prove it—Davis was still beholden to her master, who held a more powerful and important position in society than she did, making it relatively easy for him to hold Davis against her will and to try to convince the courts to overlook it the fact that Davis was, indeed, free.[33]

John Draper's case regarding certification did illustrate one of the very reasons the law was initially enacted: he was suspected of being a runaway and had to prove, through certification, that he was not. As with the cases of John Hollock and Morgan Bradshaw, who were not in possession of their own indentures, Draper did not have his freedom certificate. What makes Draper's situation different, however, is not that this was a case regarding a freedom certificate and not a contract of indenture but that it is possible that Draper's certificate was in the hands of his employer, since upon employment, freedom certificates were given to the former servant's employer until the work was complete. It appears, then, that even upon freedom, servants were not trusted to

[33] Elizabeth Davis York County, 1705: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 308, 309; John Draper, Accomack County, 1705: Accomack County Orders, reel 79 (microfilm), Library of Virginia, Richmond, Virginia, 45.

control or possess their own documentation and had to pass it along to whomever they worked for instead, possibly due to mistrust and the fear that servants would lie about their condition. Servants out of their time, therefore, were still under the control of the master class and the middling farmers and store owners for whom they worked. Even though free, they remained relatively powerless and distrusted by free Virginians. In comparison to other cases regarding documentation, this could have had something to do with the limited literacy of former servants, or, more likely, it had to do more with limiting the freedom that former servants possessed and controlling former servants even after their contracts had expired.

Unlike the actual indenture that indicated the limits of their unfreedom, freedom certificates kept servants at an arm's length from full freedom and reminded them of their previous condition and the restrictions on their freedom. Freedom certificates also likened servants more to the enslaved who had to carry passes with them whenever they left their masters' household, or to free blacks, also required to carry documentation verifying their freedom. During the late seventeenth century, Virginia established laws requiring slaves to carry certification every time they left their master's property. Various iterations of these laws—enacted to quell insurrections—remained on the statute books throughout the eighteenth century, along with one law, enacted in 1782, making it necessary for manumitted slaves to carry certification of their freedom. A 1663 law called for servants to carry passes, or "lycence[s]" when they left their master's home "[f]or better suppressing the unlawful meetings of servants." Regardless of the heavy reliance on custom throughout colonial Virginia, these laws, along with those requiring servants to obtain and carry freedom certificates, were on the books and were there in order to ensure

that former servants, regardless of their current condition as free persons, were still reminded of their servitude and their inequality among other free Virginians.[34]

Even if the certificate was meant to protect employers and masters whose servant had run away, it acted as a means to keep former servants from complete freedom. Whoever possessed the servant's freedom certificate held all of the power. George Fitch's testimony from 1700 in which he claimed "he hath become a slave," while speaking of his fifteen years of bondage, could have been used by many servants and former servants who continued to be treated as less than free even after the expiration of their indentures. Freedom certificates were yet another reminder of servants' temporary bondage and their tenuous position in society after they completed their service. Power and control was in the hands of whoever possessed the certificate, and more often than not, it was not the servant whose freedom the certificate guaranteed.[35]

In all of the cases discussed thus far, there has been some degree of power at stake. Sometimes this power was purely in the hands of masters, while at other times

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[34] For discussions of freedom certificates of former slaves, see Jennifer Hull Dorsey, *Hirelings: African American Workers and Free Labor in Early Maryland* (Ithaca: Cornell University Press, 2011), 49–57; Oscar Reiss, *Blacks in Colonial America* (Jefferson, N.C.: McFarland and Company, Inc., 1997), 127–28. For a discussion of passes, see Martha B. Katz-Hyman and Kym S. Rice, eds., *World of a Slave: Encyclopedia of the Material Life of Slaves in the United States*, Volume 2: J–Z (Santa Barbara, Calif.:Greenwood, 2011), 362; Sally E. Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas* (Cambridge, Mass.: Harvard University Press, 2001), 27–28, 105, 110–13 117–118, 125–26, 170, 186; "An Act for Preventing Negroes Insurrections (1680)," Act X, *Hening's Statutes at Large*, II, 481; "An Act Directing the Trial of Slaves, Committing Capital Crimes; and For the More Effectual Punishing Conspiracies and Insurrections of Them; and For the Better Government of Negros, Mulattos, and Indians, Bond or Free (1723)," Chapter IV, Section XIII, *Hening's Statutes at Large*, IV, 130; "An Act Directing the Trial of Slaves Committing Capital Crimes; and For the More Effectual Punishing Conspiracies and Insurections of Them; and For the Better Government of Negroes, Mulattoes, and Indians, Bond or Free (1748)," Chapter XXXVIII, Section XVII, *Hening's Statutes at Large*, VI, 109; "An Act to Authorize the Manumission of Slaves (1782)," Chapter XXI, Section II, *Hening's Statutes at Large*, XI, 39; "An Act Concerning Slaves (1785)," Chapter LXXVII, Section III, *Hening's Statutes at Large*, XII, 182; "An Act Prohibiting Servants to Goe Abroad Without a Lycense (1663)," Act XVIII, *Hening's Statutes at Large*, II, 195.

[35] George Fitch, York County, 1700: York County Deeds, Orders, Wills, 1698–1702, 11, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 325.

servants wielded power of their own, even if it was not enough to overcome their servile condition or their social standing. Even those masters who bargained with their servants and appeared to be kind by releasing them early from their contracts were manipulating the situation to their advantage. By setting servants free before the end of their term, masters were released from their obligation to provide freedom dues. Servants, indeed, exerted power over themselves by petitioning the courts in the first place, but most often this was in reaction to some sort of power play by their master. The only situations in which kind actions by masters were not overshadowed by some level of power and control, were those involving deceased masters and the wills they left behind, and even that was rare. Most masters noted the remaining time their servants had left and bequeathed them to someone else to complete their terms.

The death of a master certainly did not mean that a servant's contract was ended early. Most often, as illustrated by the will of Orlando Jones, masters bequeathed their property to their families. When Jones's will was presented in court in 1719, it was stated that Jones's daughter, Frances, was to receive John Bird, discussed earlier. Jones's son, Lane, was to get another servant, Will Cannady. Frances and Lane, then, could choose to keep these servants until the end of their contracts, or sell their contracts to someone else instead, which is what Frances did. In some cases the late master bequeathed his or her servants not to family but to a fellow planter or neighbor. This could mean that they had no relatives to will their servants' remaining time to. Two cases almost certainly illustrate this, and in those cases, the master and mistress of those households also bestowed much

kindness on their servants, and because they were deceased, no blatant play for power or attempt at manipulation is evident.[36]

The deaths of the masters of Elizabeth and James Millington in 1704 and Sarah Dunsterfield in 1714 resulted in those three servants receiving much more than corn and clothes at the end of their terms. Upon the death of Thomas Curson in York County in 1704, Elizabeth Millington and her son, James, were to be given "600 lbs of good sweet scented tobacco & caske besides what [their] indenture[s] specifie[d]." Sarah Dunsterfield appears to have received more than the basic provisions throughout her service to Isabella Toplady. Toplady's will indicated that Dunsterfield was to receive one ewe and one heifer to add to the two sheep that her mistress had already given her, Toplady's "worst bed [and] furniture," "waring clothes," a barrel and a half of corn, and "the hogg in [Toplady's] cuttery." The will did not indicate if Dunsterfield still had time

[36] John Bird and Will Cannady, York County, 1719: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 531. See also the case of Elizabeth Skrimshaw who was bequeathed to Thomas Chermeson's wife and daughter. Elizabeth Skrimshaw, York County, 1712: York County Deeds, Orders, Wills, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 202–3. James and Richard Hanson were given to the daughters of Robert Reade upon his death. James and Richard Hanson, York County, 1712–1714: York County Deeds, Orders, Wills, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 242. Walker Steavens was bequeathed to John Davis's wife, Elizabeth in 1735, and remained with her to serve out his term. Walker Steavens, York County, 1735: Walker Steavens, York County, 1735: York County Deeds, Orders, Wills, 1732–1740, 18, reel 9 (microfilm), Library of Virginia, Richmond, Virginia, 178; William, a mulatto boy, was bequeathed to Major Buckner upon the death of John Hayly in 1703. Hayly also requested that William be schooled and "brought up in ye fear of God and Protestant Religion." William, York County, 1703: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond Virginia, 136. In 1720, James Minnis and James Spense, servants to the late David Cuningham, a York County barber, were sold, and Alexander Stinson, servant to Susanna Allen, was ordered to remain on Allen's plantation or be sold at the discretion of the estate executors. James Minnis and James Spense, Alexander Stinson, York County, 1720: York County Deeds, Orders, Wills, 1716–1720, 15, reel 7 (microfilm), Library of Virginia, Richmond, Virginia, 562, 600. Other servants were ordered to finish out their service, but no information was given regarding whom they would serve during this time. Benjamin Grant and Betty Willy completed the year left on their contracts after the death of their master, George Wells of Williamsburg, in 1753. Benjamin Grant and Betty Willy, York County, 1753: Mary Marshall Brewer, *York County, Virginia: Wills, Inventories and Court Orders, No. 20, 1745–1759* (Lewes, De.: Colonial Roots, 2005), 82, 85. And in 1757, Lewis Knapkin, a mulatto servant, was hired out by the estate of his late master, Samuel Dyer, until he reached the age of thirty-one. Lewis Knapkin, York County, 1757: Mary Marshall Brewer, *York County, Virginia: Wills, Inventories and Court Orders, No. 20, 1745–1759* (Lewes, De.: Colonial Roots, 2005), 117–18.

to serve, but based on all that she received from her mistress, her term may have expired upon the death of Isabella Toplady. Once free, Elizabeth and James Millington and Sarah Dunsterfield were well prepared for freedom and might have been able to establish themselves in York County, or elsewhere, without having to depend so fully on others. The additional provisions given to them by their late master indicates their closeness to freedom and might also provide insight into the type of treatment they received from Curson and Toplady during their temporary bondage; their experience apparently compared more closely to lives of free persons than of slaves. Masters who regularly reminded their servants of their servile condition and their unfree status probably did not have a change of heart when writing their wills; therefore, those servants who gained much in their master's death probably had lived closer to freedom during their indentures. Whatever the reason, the Millingtons and Dunsterfield gained more than the mandatory corn and clothes from their masters; and while these cases were decidedly uncommon, they were not the most unique case to be presented before the York County court. One servant had a lucrative job while indentured, and he was able to purchase his freedom before his contract expired.[37]

According to law, servants who "[brought] in goods or money . . . by gift, or any other lawful way or means," were able to keep those goods or money for his or her use only. It was not to be passed on to the master and did not in any way count toward the provisions or freedom dues masters were legally bound to give to their servants at the expiration of their contract. If permitted, servants could attempt to obtain goods and

[37] Elizabeth and James Millington, York County, 1704: York County Deeds, Orders, Wills, 1702–1706, 12, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 212 (first quotation); Sarah Dunsterfield, York County, 1714: York County Deeds, Orders, Wills, 1709–1716, 14, reel 6 (microfilm), Library of Virginia, Richmond, Virginia, 392 (second, third, and fourth quotations).

wages for their own use while under contract; many, however, were not allowed, spending all of their time working for and serving their master and his or her household. George Parker, a doctor and a servant, however, was able to provide for himself and ultimately purchase his freedom during the late eighteenth century.[38]

George Parker, identified as the "Doctor and Servant of Samuel McChesney," in 1773 "agreed to give unto the sd. McChesney one hundred pounds for his freedom" in Augusta County. In return, Parker wanted a horse and saddle and also agreed to pay McChesney ten pounds a year for board. Parker's situation was far from typical. While many servants arrived in the colonies with valuable skills as both surgeons and apothecaries, most were not bound to employ those skills; Parker, however, was. It is possible that Parker was not a locally bound servant but, instead, was contracted in Europe and transported to Virginia. He may have done so in order to better his life, which he did by leveraging his skills, earning wages, and purchasing his freedom. Parker was employed as a doctor and was paid for his work; therefore, he had the one hundred pounds necessary to purchase his freedom and enough steady income to pay his then former master ten pounds per year for room and board. George Parker's time as a servant, while cut short by purchasing his freedom, was quite different from that of other servants. He did not necessarily live his life between freedom and unfreedom like his counterparts. His life, unlike many others, resembled that of a free person, and he was respected for his skills and called on to use them on a regular basis. In addition, the wages he earned working as a doctor were his by law and could be used by Parker in any way he pleased.

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[38] "An Act Concerning Servants and Slaves (1705)," Chapter XXI, *Hening's Statutes at Large*, III, 447–62, quotation on p. 450; "An Act for the Better Government of Servants and Slaves (1753)," Chapter VII, *Hening's Statutes at Large*, VI, 356–69, esp. 358–59; "An Act Reducing into One, the Several Acts Concerning Servants (1792)," Chapter 67, Shepherd, *Continuation of Hening's Statutes at Large*, I, 180–81.

McChesney does not appear to have tried to take them from Parker or deny him access to that money. Instead, McChesney acted according to the law, allowing Parker to keep any money he brought in while indentured. Interestingly, though, Parker remained under McChesney's roof, deciding to pay him room and board rather than finding his own place to live.[39]

Despite the declining numbers of servants throughout the eighteenth century, many were denied that which was rightfully theirs: for some, like Nathanial Norris, Sarah Bryant, and Susanna Nightling it was their freedom dues, which they ultimately received. For others, including George Fitch, John Bird, and David Jennings, it was their freedom. Their right to petition was often the only power they had. James Davis and Catherine Barkely, among others, while never on equal footing with their masters, were able to negotiate with their masters and figure out a way in which both sides benefited. John Winbery even attempted to manipulate the courts and leave his service before the expiration of his term, but he was forced to return to his master. What these servant experiences prove is that throughout the eighteenth century, servants faced varying degrees of power and powerlessness—some had the help of next friends or attorneys, others were bequeathed provisions well beyond their dues upon the death of their masters, while Sarah Maud and Daniel Roberts were unlawfully bound, and several were forced to produce some kind of documentation that was not always in their possession. Rarely were two situations the same. Those who were denied these freedoms were

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[39] George Parker, Augusta County, 1773: Augusta County Order Book, 1773–1774, 15, reel 66 (microfilm), Library of Virginia, Richmond, Virginia, 247 (first and second quotations). See Agreements to Serve in America and the West Indies, 1718–1725, Memoranda, CLA/047/LR/05/01/001; Agreements to Serve in America and the West Indies, 1727–1733, Memoranda, CLA/047/LR/05/01/002; Agreements to Serve in America and the West Indies, 1734–1759, Memoranda, CLA/047/LR/05/01/003. See also http://www.virtualjamestown.org/indentures/search_indentures.html.

reminded that, while not permanently bound, their status as unfree laborers served as a barrier to freedom and fair treatment, both during and after servitude, and that even when they were on the verge of freedom, their masters attempted to use their own power and authority to continue to exploit their servile condition. Ultimately masters always gained something from the master-servant relationship even if reciprocal benefits existed for a handful of servants. Inevitably, this relationship reinforced the servile condition of these servants and even when granted certain rights, they were limited in terms of how and when they could exercise them.

# Conclusion

George Fitch who appeared before the York County court in 1700 was most certainly not one of the last servants in Virginia to claim that he "hath become a slave" to his master in eighteenth-century Virginia. But to read the existing scholarship it might be assumed that Fitch was one of the last white servants to be bound in a society that by the eighteenth century is most often understood as one divided along the lines of black bondage and white freedom. In fact, Fitch was only the first of many servants bound to serve white masters in eighteenth-century Virginia who experienced life between freedom and unfreedom. Despite claiming a slave-like existence, Fitch was neither slave nor free, and neither were any of the other servants—including indentured, customary, and convict servants, locally bound servants, and apprentices—who appeared before the Virginia county courts for fornication, bastard-bearing, mistreatment, abuse, running away, or for being denied their freedom dues. They were servants, bound to serve their white masters for any number of years, ranging from one (for some apprentices) to thirty-one (for mulatto children born of servant women), and treated in any number of ways by their masters who saw them not as eventual free persons but as an exploitable labor force, regardless of the temporality of their bondage.[1]

Masters and servants did not find common cause with each other in eighteenth-century Virginia. While this is not to say that race and racism did not become a more important part of Virginia law and society, there were those masters (and even legislators) who continued to justify their exploitation and manipulation of white servants based strictly on their condition as bonded labors and not on the color of their skin. It was

[1] George Fitch, York County, 1700: York County Deeds, Orders, Wills, 1698–1702, 11, reel 5 (microfilm), Library of Virginia, Richmond, Virginia, 325.

a society in which access to labor meant access to power and prosperity, so for masters to find solidarity with their white labor force would have interfered with these goals. They could not simultaneously grow their wealth and prestige and establish harmonious relationships with those whose labor they depended upon to aid in their success. And while many masters built their lives upon the backs of their enslaved laborers, for some small and middling planters and farmers, servants were the only labor force they had; therefore their servants, in effect, were their slaves. Race played no role in how these masters viewed or used their servants; it was their condition as bonded laborers that allowed their masters to employ them much like slaves.

The exploitation and manipulation of a white bonded labor force after the large-scale adoption of slavery is suggestive of a few things. First, that it is necessary to reconsider how we study and view bonded labor in eighteenth-century Virginia. Second, the power relationships dictated by race, gender, and labor did not only ensnare white masters and African slaves but also white servants who, like the enslaved, struggled to gain power and control over the more powerful master class and who were constantly exploited for the benefit of their masters. While enslaved labor dominated the landscape, another institution of bonded labor existed in which white servants—with hopes of gaining access to power upon freedom—labored alongside black slaves and were exploited and manipulated by their masters in similar ways. While it can be argued that servants were legally able to complain to the county courts, which they did, that access was rather minimal and sometimes depended on whether their masters allowed them to get there at all. For all of those servants who were able to petition against their masters for ill-usage, abuse, a lack of provisions, a denial of freedom dues, or even a denial of

their freedom, there were likely many more who were denied that opportunity by their masters who felt threatened by the fact that their bonded laborers, despite being white, had the right to speak out against them. But even when given this opportunity, servants remained relatively powerless, and very few were removed from the households of their masters upon their first complaint. Masters had to commit some very egregious acts in order for their servants to be removed from their homes immediately. And the relative powerlessness that servants experienced before the courts most likely translated into their lives as free persons, as their former masters and others failed to see them as anything but former laborers. Therefore, even when they were free, the master class refused to come together with them, even against the enslaved.

Eighteenth-century Virginia cannot simply be divided between slavery and freedom. There were people that lived between these two conditions who not only contributed to the economic successes of their masters but also complicated the social dynamics of the region. This alternative labor force had a place among the growing number of slaves throughout the century as masters continued to bind them to service in the hopes that they would contribute to their prosperity. Other historians have suggested similar labor forces in other regions of the Chesapeake; therefore to fully understand the role of indentured servants, customary servants, and convict servants, locally bound servants, and apprentices in eighteenth-century Virginia (and even debt servants and hired laborers), it is important to begin considering the Chesapeake as more than just a slave society. It was in fact a society of masters, servants, and slaves. And despite the temporality of servants' bondage, they most likely remained a people between after the expiration of their indentures, unable, once free, to find common cause with either the

enslaved with whom they had shared some of the same hardships and mistreatment while bound or their former masters who most likely refused to consider them as anything but servants.[2]

Despite the relative impossibility of social mobility after the expiration of their indentures, servants continued to arrive in the American colonies after the Revolution, and therefore continued to be employed and exploited by white masters both as a supplement to planters' enslaved labor force on the plantations of Virginia and Maryland, or, more likely, in cities like Baltimore. This movement of unfree laborers into cities indicates another, final shift in the institution as the nineteenth century neared, and it is one in which some scholars have begun to explore.[3]

It is clear that more work remains to be done not only on servants in those eighteenth-century societies most often considered divided between black bondage and white freedom, but also in regions where wage labor was more prominent. Additionally, work on servant rebellions and how they were viewed and talked about by the master class in comparison to slave rebellions would most likely reinforce the lack of racial harmony between whites of differing conditions into the eighteenth century.

Servants who lived and labored in eighteenth-century Virginia had varied experiences during their bondage. Some never appeared in the historical record at all, served out their terms, and most likely went on to a life of wage labor and minimal social

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[2] Christine Daniels, "Alternative Workers in a Slave Economy: Kent County, Maryland, 1675–1810" (Ph.D. dissertation, Johns Hopkins University Press, 1990); Russell R. Menard, "From Servant to Freeholder: Status Mobility and Property Accumulation in Seventeenth-Century Maryland," *William and Mary Quarterly*, 3rd ser., 30 (January 1973), 37–64.

[3] Seth Rockman, *Scraping By: Wage Labor, Slavery, and Survival in Early Baltimore* (Baltimore: Johns Hopkins University Press, 2009), 30, 54, 71, 91, 106–107, 243–43; Sharon Braslaw Sundue, *Industrious in Their Stations: Young People at Work in Urban America, 1720–1810* (Charlottesville: University of Virginia Press, 2009), chapter 6. For scholarship on servants in Philadelphia, see Sharon V. Salinger, "*To Serve Well and Faithfully": Labor and Indentured Servants in Pennsylvania, 1682–1800* (New York: Cambridge University Press, 1987), chapters 4–6.

mobility. Others appeared in court only to have their ages adjudged. Still more—over six hundred in York County alone—were either brought before the court by their masters for a transgression such as bastard-bearing, theft, or running away or came on their own volition to complain against their masters. And of these over six hundred York County servants, several appeared before the court justices on more than one occasion, and in the cases of servant women it was because they became pregnant on more than one occasion and stood before the court to have their contracts extended. But masters found any way they could to extend the contracts of their temporary bonded laborers in order to extract as much work out of them as possible, and masters were only rarely at risk of losing their servants upon an initial complaint. It was, for masters, a system in which they most often benefited, as many of them were involved at one time or another in the implementing of laws and the decisions of the court. Servitude, then, like slavery was an institution designed to exploit those bound in it and benefit those who employed it on their plantations and farms. And the presence of servants throughout the eighteenth century can offer us more than just demographic numbers and patterns of migration, these were people, people who lived, worked, and complicated notions of labor, race, and gender in eighteenth-century Virginia. The more we can come to learn about their experiences and their influence on the actions and reactions of their fellow servants, the master and middling classes, and the enslaved, the more fully we will understand eighteenth-century Virginia and the development of the concepts of both race and status throughout the colonial period.

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